

**REAL ESTATE FINANCE  
AND THE REAL ESTATE  
MARKET IN BOSNIA:**

**UNLOCKING CAPITAL  
for  
DEVELOPMENT**

**Prepared for:**



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## REAL ESTATE FINANCE AND THE REAL ESTATE MARKET IN BOSNIA: UNLOCKING CAPITAL for DEVELOPMENT

### 1.0 INTRODUCTION

A vibrant real estate sector is crucial to economic development. Bosnia and Herzegovina (BiH), like other transition and emerging economies, seeks to stimulate economic activity through real estate development, as well as to “unlock” its real estate capital in supporting Small to Medium Enterprises (SME) development. Similarly, transparent and cost-effective land use policies offer an environment more hospitable to foreign direct investment as well as local projects. At present, however, real estate lending and real estate transactions in BiH are severely constrained by a number of factors, including a large concentration of unregistered properties, delays and other problems in enforcement of legal contracts; excessive taxes, fees, and permitting requirements; and urban development activities stalled by an overly-layered administrative framework and by the lack of resolution of the restitution issue. Lack of information on the magnitude of the registration problem, and on actual household income and the market value of real estate transactions, further exacerbates the issues.

The benefits of improving real estate finance accrue in two important ways: broadly across the economy and specifically to SME development via collateralized lending and stimulus of real estate related activities. Examples of potential benefits include the following:

- Real estate activities have been proven to provide significant multiplier impacts on the economy, stemming from construction activity, construction materials, spin-off purchases of furniture, fittings, appliances, and so forth;
- Recent studies have reinforced the importance of labor mobility to economic growth; without the ability to buy, sell, and construct property in key development areas, mobility is seriously constrained;
- Real estate activity is linked to the SME sector in a number of important ways:
  - real estate as collateral for SME lending;
  - property improvements for providing a locus of SME activities; and
  - real estate activity that – in and of itself – provides a boost to SME development via small construction and rehab companies, appraisal services, brokerage houses, property managers, and ultimately, activities such as computerized real estate databases and market surveys.

It is conventional practice, in BiH as elsewhere, to support SME development with real estate collateral. If there are serious constraints on this collateralization and on enforcement of the lending contracts, the “unlocking” impact so vividly described by Hernando de Soto in the *Mystery of Capitalism* cannot take place effectively. This is the current situation in BiH. Banks have adopted exceptionally conservative lending policies in response to very real risk problems: inability to determine “real income” or credit history; inability to realize mortgage collateral in cases of default, due to slow court procedures and/or a pronounced debtor bias on the part of judge; and the use of multiple guarantors and other security to replace mortgages on the many unregistered properties. Several banks noted a refusal to fund SME start-up activities. Similarly, restrictions on buying urban land, together with costly permitting fees and delays is resulting in illegal construction and a lack of transparency in recording real estate prices. Finally, it should be noted that lack of information on the market and potential borrowers introduces uncertainty into the scope of specific problems and therefore how to best address them. For example, lack of data on the



number of unregistered properties, on actual income, and on bank applications turnaround rates, limits knowledge of would-be borrowers and the level of “effective” demand.

The following sections provide an overview of real estate lending and the real estate market in BiH. We first summarize the progress to date and then note the key constraints, followed by recommendations. To organize the discussion, we distinguish the legal framework, real estate lending, real estate market transactions, and development of a secondary market (ultimately a key source of long-term funds for real estate lending). The recommendations also note possible linkages with other existing and expected USAID projects, specifically those for local government, SME development, and legal reform, and with other donor efforts.

As a first step in development of a coherent policy overview, we suggest establishment of a Roundtable Group with members drawn from lenders, relevant Government institutions, and other key donors. Also, better coordination with other donor efforts in developing real estate legislation and registration projects will provide a more consistent development approach.

## 2.0 SUMMARY OF PROGRESS AND CONSTRAINTS IN THE REAL ESTATE AND MORTGAGE MARKETS

In the last several years, BiH has made clear progress in a number of areas necessary to the operations of real estate finance and real estate transactions. The lending environment is greatly improved. Bank restructuring and the significant entry of foreign banking capital and expertise has created a vibrant and competitive retail banking sector. Prudent monetary policies have now limited inflation and the Central Bank of BiH is pursuing best practice regulatory and supervisory practices. Although limited by numerous factors discussed below, mortgage lending is underway, as well as “consumer” lending for housing purposes. Realtors, developers, and appraisers are engaged in the market. Overall, there is a growing awareness among stakeholders of the importance of the real estate sector and the need to push reforms to solidify and improve its legal and administrative framework.

Specific examples of progress in the areas of our concern are noted below.

### 2.1 Progress in the Legal Framework for Real Estate Finance and Registration

New amendments to the **Law on Enforcement Procedure** were adopted in 2003. The amended law represents progress over previous law in that it has shorter time periods for the various steps in the execution process, including sale of real estate, and clearer procedures for real estate auctions. It also eliminates a minimum for the sales price at the third and final auction, allowing lenders to purchase property of the debtor at a below-market price. The new law allows the execution procedure to continue even if the debtor presents a defense and also allows the judge to reject a defense without a hearing, both at the discretion of the judge. Most banks have used the new law with some success – one bank that was interviewed has taken a case all the way through purchase at the final auction – and all believe the amendments have improved execution procedures.

Some progress is being made in developing the new **land registry system** under the 2002 law with the assistance of pilot cadastre and registration projects operated by the GTZ in a handful of localities. However, whether the lessons of those projects can be rolled out to the remainder of the country to complete the registration system remains an open question at this time. GTZ is also stressing the need for a very large input of resources to continue and enlarge the current process.

### 2.2 Progress in Real Estate Lending

**Banking sector practices and expertise** are generally appropriate to BiH's current risk circumstances. Although the banks' very conservative approach to mortgage lending greatly limits its effectiveness, most of the problems are external to the banks. Foreign banks bring a high level of international expertise and also longer-term funds from the mother banks. The newly developing competition in retail lending will improve the outreach of the sector. However, the fundamental legal and registration problems must be solved before real estate lending can truly move forward.

BiH has also scored a regional first: a privately owned and developed **credit bureau** is now operating in BiH, which is a major step forward in the establishment of a credit information service. There are a number of outstanding problems, including not yet universal participation by the major lenders, but it will be important for both real estate and SME lending to encourage the success of the credit bureau.

Finally, the **Central Bank of BiH** was among the first institutions to begin consolidating and centralizing operations across all entities. There are plans to centralization of both bank supervision and the payments clearinghouse.

### 2.3 Progress in Real Estate Transactions

**Real Estate Brokers, Appraisers, and Property Managers.** The important support functions for the real estate market are functioning and growing in number. However, they are generally struggling, and

would benefit from formation of associations and continued introduction of international standards and best practice via integration with international and European associations. Appraisal practices, especially, could benefit from improved methodological training, most notably in the important market comparables method.

The **Indirect Tax Policy Commission** was established in 2003 to prepare comprehensive recommendations on tax policy and legislation. As discussed below, a key recommendation is to reduce or eliminate a variety of the taxes and fees on real estate development and transfer and replace them with a municipal property tax; importantly, the Commission provides a forum for this discussion.

In the sphere of development of real estate markets generally, there is a recent **Law on Spatial (Urban) Planning (2002)** and on **Urban Construction Land (2003)** which may improve access to land and construction permits for business and housing development. The Law on Urban Construction Land requires that use rights to unbuilt land be competitively auctioned, which makes the acquisition process more transparent and fair.

## **2.4 Progress in Secondary Market Development**

A major step in the financing of small business, which is also important for capital markets, is the pending law on pledge of movable property and establishment of the pledge registry. This proposed law, which is essential to receivables and inventory financing as well as leasing and other forms of secured finance, would adopt modern legal principles of pledge and streamlined execution procedures. The pledge registry is expected to be operation this year.

There are also in place at this time relatively modern securities laws and small but active stock exchanges in both FBiH and RS, and some efforts to encourage cross listing between the two exchanges as well with other exchanges in the region. A law on government debt issuance is in development and is expected to be followed by gradual development of a government debt market. In BiH there is a modern law of mutual funds following the European (UCITS) model.

## **Summary of Key Constraints in Developing Real Estate Finance**

### **2.5 Constraints in the Legal Framework for Real Estate Finance and Registration**

**Court-based real estate transactions, mortgage lending, and mortgage enforcement system.** The recent amendments to the executive procedure law which facilitate mortgage enforcement are welcomed, but the court based system remains more complex, expensive and time consuming than more modern alternatives being adopted by other transitional economies in the region. Non-judicial enforcement of mortgage collateral is the emerging trend in transitional and developing economies, as reflected in the law on pledge of movable property now under consideration.

In addition to the numerous court hearings and decisions required for enforcement, other real estate transactions require court procedures and approval. These include contracts of sale or other transfers of real property, changes in registration in the land book, and validation of mortgage documents. The entire real estate sales transfer, mortgage and enforcement system is intensively and excessively court based, adding to the expenses and delays of real estate transactions. No market-based property system can thrive under these circumstances.

**Inadequate property registration system.** The current state of the property registry decreases the depth of the mortgage market and leads to higher transaction costs. Experience in adjoining countries suggests that bringing the registry system to acceptable levels of performance could be an expensive and time consuming undertaking.

**Drafting Process for Law on Property.** Work is underway on comprehensive revisions of the Law on Property (Ownership), which governs property as well as mortgage and some pledge relationships. Whether the new laws that have been proposed accomplish the desired objectives remains an open

question pending further review, and a comprehensive look at this fundamental law in light of modernizing markets is necessary. A more transparent process and donor cooperation in the drafting process is deemed necessary.

## 2.6 Constraints in Real Estate and SME Lending

**Extremely Conservative Approach to Real Estate and SME Lending.** Real estate lending is primarily hindered by the registration and enforcement problems discussed above. However, experience in developing mortgage finance systems in transition and emerging markets indicates that banks remain very risk averse even after the components of the legal and administrative infrastructure start to fall into place. Banks in BiH have generally adopted an over-collateralized approach to lending, and focus their marketing on the upper income groups and favored corporate customers. What mortgage lending there is in BiH is being offered only to clients with multiple types of guarantees and/or collateral. Thus, the banks do not appear to be addressing the needs of even “bankable” households – in terms of having adequate ability to pay - if they lack the numerous and conservative underwriting requirements. These may include multiple guarantors, compensating balances, employment at bank-financed corporations, other collateral, and so forth. ***This situation will not serve either to provide needed housing and rehabilitation or to invigorate the economy via housing’s multiplier effects.***

**Real Estate Collateral is the Norm in SME Lending.** The same problems that hinder real estate lending have a major impact on SME lending when real estate is to be used as collateral: unregistered properties and the need for guarantors and/or other collateral. Again, concerns about enforcement make banks especially conservative. Also, in the case of SME lending, the majority of banks noted that defaults were higher in SME lending, although some portion of these loans are from the old portfolios of local banks that were taken over during restructuring. A number of banks indicated that they generally refused to fund SME start-ups, although they might consider ongoing concerns.

**Limits on long term sources of capital.** At this time sources of long term funding appear to be adequate to support the small mortgage market. However, those sources are in the form of lines of credit from the “mother” banks and international development banks (IFC and EBRD) and can be characterized as limited and transitional. Especially for local banks, other sources will eventually need to be found to avoid maturity mismatches.

## 2.7 Constraints in Real Estate Transactions and Development

**Administrative Fees and Permits.** Municipalities and local courts require a multitude of licenses and permits to develop real estate, all of which entail fees of varying amounts. Developers estimate that this adds 15% to the cost of real estate development – enough to eliminate profits for most developers and to discourage all but the most highly motivated and deeply capitalized firms from undertaking development projects. Administrative procedures are reported to be arbitrary and non-transparent, and vary greatly from municipality to municipality. Cantonal authorities also sometimes inappropriately intervene in this process, adding to a developer’s expenses and uncertainty.

**Inability to Own or Mortgage Undeveloped Land.** Undeveloped urban land remains in state ownership. Tenure is limited to a long-term use right, so this land cannot be purchased outright for development. While use rights can be registered in the land books, most banks will not lend for construction on this basis. Inability to own urban undeveloped land privately constrains the growth of the real estate market and the mortgage market.

**Uncertainty about Law on Notaries.** A Law on Notaries has been passed in the Federation that provides that only notaries, not lawyers, can prepare contracts for sale of real estate. The Parliament in RS has considered a similar law on two occasions but has not adopted it. Not surprisingly, lawyers and their advocacy groups have opposed these laws in both entities. The law is not being implemented in the Federation, perhaps partially because of this opposition. In any case, the authority to prepare real estate contracts, which must be approved by courts to be valid, is unclear and will remain until this issue is resolved.



## 2.8 Constraints in Secondary Market Development

The key constraints to developing a secondary mortgage market include:

**Market size.** It is reasonable to ask whether it is necessary or efficient to invest in developing the legal and institutional infrastructure for secondary mortgage markets in a market of this size in which European banks are apparently willing to meet the demand for mortgage lending and all loans and obligations are tied to foreign currency. Nevertheless, it is conceivable that a small and efficient local market for mortgage securities could be established if there were local institutional investors.

**Lack of institutional investors.** Private pension funds have been a primary source of demand for mortgage securities in emerging markets.

**Lack of a government or corporate debt market.** There is no experience with or infrastructure for long term debt markets, particularly secured debt. There are no benchmark debt instruments and no long term yield curve. The laws on corporate debt issuance are inadequate.

**Various legal and regulatory issues.** At this early stage of development of the mortgage market many of the necessary legal and regulatory issues of mortgage securities markets have not been anticipated and addressed. This is by no means unusual but nevertheless a significant number of minor acts and amendments to present laws, regulations, and policies would be required.



### 3.0 LEGAL FRAMEWORK FOR THE RESIDENTIAL REAL ESTATE MARKET

A number of important legal factors constrain development of the primary mortgage market and inhibit development of cost-effective and transparent transactions. These include inadequate enforcement of mortgage contracts, an incomplete legal framework, and inadequate property registration

#### 3.1 Enforcement

**Court-based real estate transactions, mortgage lending, and mortgage enforcement system.** The recent amendments to the executive procedure law which facilitate mortgage enforcement are welcomed, but the court based system remains more complex, expensive and time consuming than more modern alternatives being adopted by other transitional economies in the region. Non-judicial enforcement of mortgage collateral is the emerging trend in transitional and developing economies, as reflected in the Law on Pledge of Movable Property now under consideration.

Judges must approve an initial motion for enforcement; determine the value of the property, time and conditions of the sale; schedule and supervise each of up to three auctions of the property; and approve the transfer of ownership after the sale. In addition to the numerous court hearings and decisions required for enforcement, other real estate transactions require court procedures and approval. These include contracts of sale or other transfers of real property, changes in registration in the land book, and validation of mortgage documents. The entire real estate sales, transfer, mortgage and enforcement system is intensively and excessively court based, adding to the expenses and delays of real estate transactions. No market-based property system can thrive under these circumstances.

Excessive judicial discretion – either in the law itself or in practice – is frequently cited as an additional problem. In many cases, judges disregard time limitations, and allow frivolous defenses to stop or impede enforcement actions.

**Cultural Impediments to Mortgage Enforcement.** There is a strong aversion among citizens of BiH to buying property at a mortgage foreclosure auction, even when the sales price could be far below market value. Reasons given include cultural (it is not “seemly” to benefit from a neighbor’s distress), and security – fear that the debtor may take retaliation against the buyer. This means that the lender will almost always be the buyer at an auction. Even if the property sells for far below market price, the bank must pay taxes, transfer fees, maintenance costs, and sales commission on the acquired property. Banks do not want to be real estate brokers, so being the buyer of last resort makes them less likely to undertake additional risk in lending or to rely on mortgage as security rather than other collateral such as wage attachment, guarantors, or bills of exchange.

#### 3.2 Laws

**Law on Obligations.** BiH still has in effect the equivalent of the 1978 Law on Obligations (Contracts) and Torts of the Republic of Yugoslavia. That was a comprehensive and, for its time, a relatively modern law. However, we have been provided with a draft law prepared by the GTZ entitled Law on Obligation Relations dated June 16, 2003, which apparently sets out to rewrite the obligations law entirely. The GTZ draft consists of 1,374 articles on 341 pages and detailed review was not possible within the context of this project. However, this proposed law will affect many legal principles relevant to operation of real property markets, mortgage lending, and mortgage securities markets. A sample of the topics covered by this law includes credit agreements; pledge of secured obligations; assignment of claims and other rights; property insurance; lease of real property; agency and factoring; and sale of assets.

We suggest that BiH undertake a review of the proposed Laws on Obligations by international experts. Sponsor a working group with stakeholders and international experts to consider the implications of the proposed laws, including roundtables and seminars at which the views of local and international experts can be presented.



**Law on Property.** Work is underway on comprehensive revisions of the Law on Property (Ownership), which governs property as well as mortgage and some pledge relationships. Whether the new laws that have been proposed accomplish the desired objectives remains an open question pending further review and a comprehensive look at this fundamental law in light of modernizing markets is necessary. A more transparent process and donor cooperation in the drafting process is deemed necessary.

We suggest that BiH undertake a review of the proposed Laws on Property by international experts. Sponsor a working group with stakeholders and international experts to consider the implications of the proposed laws, including roundtables and seminars at which the views of local and international experts can be presented.

**Uncertainty about Law on Notaries.** A Law on Notaries has been passed in the Federation that provides that only notaries, not lawyers, can prepare contracts for sale of real estate. The Parliament in RS has considered a similar law on two occasions but has not adopted it. Not surprisingly, lawyers and their advocacy groups have opposed these laws in both entities. The law is not being implemented in the Federation, perhaps partially because of this opposition. In any case, the authority to prepare real estate contracts, which must be approved by courts to be valid, is unclear and will remain until this issue is resolved. The Law on Notaries is scheduled to take effect on March 29, 2004, but there are obvious barriers preventing implementation, not the least of which is the current lack of notary selection appointment procedures. It is not clear what will happen.

Generally, it is the opinion of the authors that establishment of a notarial system in a transitional or developing economy where none previously existed is a departure from recommended best practice which can significantly complicate real estate transactions and increase transaction costs. Objections to the system envisioned in the pending law include:

- Barriers to entry. Notarial positions are limited by geographic area (cantonal court district) and population. Barriers to entry can create both service bottlenecks and monopoly pricing. (Regulated fees are not a solution as they can distort market pricing and regulators become captives.)
- Gives a monopoly power over all real property transactions. Again, the threat is service bottlenecks and distorted pricing.
- Potentially contradicts the execution procedures of the pending Law on Pledge of Moveable Property.
- Duplicates some functions of other registries, including by issuance of certifications of rights and documents and creation of original document files.

We suggest that BiH reconsider the need for the proposed law. At a minimum the law should be modified to provide for open entry to the notary profession; no minimum fee restrictions; limiting notary participation in contract preparation to certification of identities and signatures; clarification of the notaries function in light of the Law On Pledge of Movable Property and the Law On Land Registers.

### 3.3 Property Cadastre and Registration

Registration of real property titles is generally acknowledged to be a significant barrier to development of real property and mortgage markets. The present system consists of separate Geodetic Administrations in FBiH and RS which are responsible for the real property cadastres and a registry of titles maintained by the courts under the supervision of the Ministry of Justice. The real property cadastres are responsible for describing and certifying through survey the legal object to which legal rights may attach (primarily, the land plot), and the land registry maintained by the courts is responsible for establishing the legal rights to the object.



Prior to enactment of the Law on Land Registry in Bosnia and Herzegovina<sup>1</sup> in 2002 there were two separate legal systems for title registration. The remnants of the Austro-Hungarian system based on the Old Kingdom law on court based land books existed in many jurisdictions together with a land cadastre. On top of this system the 1984 Law On Land Survey and Real Property Cadastre created a unified "real estate cadastre" which combined in one institution the functions of cadastre and registration of titles and was intended to replace the old court-based land book system in its entirety.<sup>2</sup> Primarily due to lack of resources, it is estimated that the new real estate cadastre was fully implemented in only 600 of over 3,000 cadastral municipalities (geographic districts designed for cadastral record keeping), but that many towns began implementation and up to 1992 had achieved significant progress.<sup>3</sup> During this same period, the court based land books had fallen further into disuse and become unreliable. On the positive side, cadastral work continued throughout this period with modern mass surveying techniques and it is estimated that by 1992 cadastral surveys for 80 percent of the country had been completely updated.

The war years brought a halt to much further progress in updating the land cadastre or implementing the unified real estate cadastre, and the court based books continued to develop extensive discrepancies with the new land cadastre surveys, which to this day have not been reflected in the court books. It is accurate to say that there has been little progress on these issues since 1992, and in fact the state of the registration system has probably become more dire as a result of extensive property dislocations and the failure to register the many property transactions occurring since that time.

In 2000 the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) produced a comprehensive report on the status of cadastre and title registration which recommended that investment be made in completing the unified real property cadastre and phasing out the deteriorated court land books.<sup>4</sup> Inexplicably, two years later the OHR took the opposite approach and adopted the Law On Land Registry, which terminates the real property cadastre and reinstates the land books in the courts. Though this approach conflicts with most modern opinion on best practice for developing and transitional countries, it appears to be the context in which work must go forward for the foreseeable future.

While it is difficult to get reliable quantitative estimates of the state of the title registration system today, there are some indications that upward of 40 percent of the country lacks a functional titling system.<sup>5</sup> This would be consistent with the conditions found in Slovenia, Croatia, Serbia and Macedonia by ongoing World Bank cadastre and titling projects in those countries. It is believed that in about 20 percent of the towns no court land book exists due largely to war caused damage and destruction. In those towns in which books still do exist the main problem to be addressed is the lack of updating and conflicts between the contents of the books and facts on the ground, and in that regard a main problem is reflecting in the books the updated land cadastre survey information which had been produced up to 1992 and which is still being produced under a few pilot projects conducted by foreign donors today.

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<sup>1</sup> Decision of the Office of High Representative 58/02, October 21, 2002.

<sup>2</sup> Law on Land Survey and Real Property Cadastre (Official Gazette SRBiH No. 22/84, 12/87, 26/90, 30/90, 3/93 and 4/93); Law on Land Survey and Real Property Cadastre (Official Gazette RS No. 19/96).

<sup>3</sup> See Real Property Titles and Entitlements in Bosnia and Herzegovina: Creating a Unified System for the Registration of Real Property Rights and Development of Real Property Markets, Commission for Real Property Conflicts, Office of High Representative, Sarajevo, 2000 [hereinafter the "World Bank/CRPC Report"].

<sup>4</sup> World Bank/CRPC Report.

<sup>5</sup> The CRPC closing report issued at the end of 2003 states that at that time the court based land books were functioning in only 59 percent of the jurisdictions. It is not clear from the report whether this means that those jurisdictions had no operational title registry, or whether a portion of those jurisdictions had replaced the land books with the real estate cadastre.



*In sum, the current state of the registry decreases the depth of the mortgage market and leads to higher transaction costs. Experience in adjoining countries suggests that bringing the registry system to acceptable levels of performance will be an expensive and time consuming undertaking*

Use of the term "updating" with respect to the poorly maintained and inaccurate court land books can be misleading. Experience in other countries, including in the former Yugoslavia, has shown that there is a point at which books cannot simply be updated, but must be completely reconstructed through a systematic process in order to assure reliability. Because the BiH Law On Land Registry invests the books with a claim to legal accuracy, states that third parties can rely on them, and establishes official liability for errors and omissions, this process cannot be done sporadically, because clearly today the books are inaccurate and unreliable, undermining the representations of the law. For this reason, some laws in the region (for example, Croatia, which has the same court based system as BiH, or Serbia, which uses the real estate cadastre system) provide that even an existing land book can be so deteriorated that upon the determination of the responsible authorities systematic reconstruction is necessary before the legal claim of reliability can attach. The process of systematic reconstruction of the books is complex, comprising detailed reconciliation of title registry with the new cadastral records and other sources of legal information, creation of a preliminary land book, publication of results, individualized hearings for property owners, and appeals.

The BiH Law on Land Registry contains some of these same procedures, but it is not clear whether the existing books will be systematically recreated. The law requires systematic recreation of any book that has been "destroyed, lost or ruined." Presumably the term "ruined" can apply to legal ruination as well as physical ruination, but this remains to be seen. If the intention is to apply systematic reconstruction only to books that have been physically ruined, it is suggested that this is shortsighted and the law should be appropriately amended to require recreation of books that are presently so far out of date that piecemeal attempts at updating cannot assure reliability.

GTZ is providing support to the implementation of the Law on Land Registry; we were advised that this technical assistance project in cadastre and registration is budgeted in the range of \$2,000,000. It should be noted, however, that the process of correcting the land books in a systematic manner can be time consuming and relatively expensive, although it is a necessary investment in an essential public good. Comparable projects in adjoining countries funded by the World Bank and other bi-lateral donors range from \$15 to \$40 million.<sup>6</sup>

GTZ support includes the following:

- provision of office equipment for 48 land registry offices of the local courts;
- software for land registration and database management;
- assistance to the development of the code of practice for registration procedures;
- support to reconstruction of the cadastre via pilot projects in three municipalities (Trebinje in RS, Grude in FBiH, and Brcko in the Brcko District). Support includes the cadastral survey (essentially vectorization/digitalization of the most recent cadastral maps) and updating of court land books (essentially digitalizing current court book records).

While the GTZ project is not insignificant, it is unlikely that it will have a major impact on the current registration problems, given their scope. Moreover, there is no indication that additional funds will be forthcoming from the same source to roll out the lessons learned in these pilot projects to remainder of the country.<sup>7</sup>

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<sup>6</sup> The WB/CRPC Report estimated that completion of the real estate cadastre would cost approximately 460,000,000 KM, or well over \$100,000,000. This estimate was not reviewed in detail, but the estimated amount seems exceptionally high on the basis of other experience in the region.

<sup>7</sup> A further issue with the ongoing pilots may be that they do not appear to be engaged in systematic reconstruction of rights, but simply conversion of existing records to electronic format. In that sense they may address only a small part of the problem.



### **3.4 Lack of Adequate Framework for Apartment Ownership and Management.**

In urban areas where the real estate market is most developed a substantial portion of the population lives in formerly state- or enterprise-owned apartments that were privatized in the late 1990s. Some lenders in BiH believe that the Law on Apartment Privatization is not sufficiently clear with regard to ownership rights to common property of apartment buildings, including land under the building, to allow individual apartments to provide good security for mortgage loans. Many loans made for apartment renovation are consumer rather than mortgage loans.

In fact, ownership of apartments (together with each apartment's share of the common property) is fairly clear under current law in BiH. Registration of privatized apartments was handled outside the usual Land Book system to allow for speedy and reliable registration. A Book of Deposited Contracts was set up in a separate office in each jurisdiction with a Land Book registry, and entry in this system is legally tantamount to Land Book registration.

In other transition countries, apartment owners often provide a large and attractive customer base for mortgage loans, both for acquisition and for renovation. In addition, if the Condominium Law is clear, owners' associations can borrow funds to renovate common property. In order for this to be feasible, the Association must have a clear legal right to collect maintenance and operating fees from the individual owners. In addition, the law in BiH unreasonably limits the rights of apartment owners to make their own decisions about management and improvement of their properties. In most case, the only qualified property managers are the successors of the former socially-owned maintenance enterprises, who provide inadequate services. The law should be amended to give owners full decision-making authority. This will not only result in more renovation of condominium properties, it will also lead to establishment of small property management firms. These SMEs have flourished in transition countries where owners of privatized apartments have full control over their properties.



## **4.0. OPERATIONS OF THE REAL ESTATE MARKET**

### **4.1 Profile of Real Estate Transactions**

Approximately 20 percent of the real estate transactions are broker assisted. As discussed, the legal and regulatory structures in BiH are incomplete and overly restrictive. Because of the complex nature of concluding transactions, including court approval of the offers to purchase and an onerous registration/transfer fee mechanism, the market is unduly limited. Estimates suggest that annual transactions represent approximately 1 percent of the total housing stock. By Western standards, this is quite restrictive.

The buyer pays a transfer tax of 6 percent after the court validates the signatures. All properties that are registered are subject to an evaluation by the Municipal Tax Commission; reportedly, the Commission adjusts the sales price upward in 90 percent of the instances (and by law never adjusts it downward). The adjustments are said to be approximately 20-25 percent of the offering price, and the 6 percent transfer fee is applied to that valuation.

### **4.2 Real Estate Brokers**

Estimates of the number of real estate practitioners range from 350 to 750 persons practicing full or part time real estate brokerage; the legal community that also participates in approximately 60 percent of the cases. These figures include not only the legitimate, registered businesses but also the “black brokers.” Nationwide, there are probably 250 to 275 “higher quality” practitioners. Thus, it would appear that there are between 350 to 500 “black brokers,” or illegitimate brokers, throughout the country. Also, many attorneys actually practice real estate brokerage, although they are prohibited by law from doing so. Brokers indicate that the lawyers simply raise their fee for drafting documents to approximately 3 percent of the sales price when they produce a buyer for the property.

There is a portion of the brokerage community that is “legitimate” because they have registered with their local municipalities. This subjects them to a 10 percent tax on the income from every closing plus a profits tax at the end of the year estimated between 30-60 percent depending on the amount of profit.

Legitimate brokers complain that they are tainted by the activities of “black brokers” and that the entire profession is therefore not viewed in a very professional manner. Most believe that the government is there to make it difficult for them to do business and is not particularly helpful to them. The overall impression is that the government is viewed as in the best instances as neutral and in a general sense as not being terribly productive.

Almost universally, commissions are 3 percent and are paid by the seller. The fee for rental commission is one month’s rent for an annual lease (pro-rated if less than one year) and a half month’s rent on renewals. There appears to be widespread co-brokerage in the market, including legitimate brokers co-broking with black brokers or attorneys. Co-broking is a positive phenomenon not generally seen in other markets in the region.

There is no association in place in BiH therefore there is no code of ethics, no enforcement of a code in the real estate brokerage community. No standard has yet evolved in the marketplace for the payment of agents and splitting of fees within a company. Companies range from paying direct salaries and no commission fees to paying all commission splits. Commission splits to the agents range between 10 to 30 percent of the fee the company received; salaries ranged from \$160 to \$300 per month.

Estimates of the number of legitimate brokerage companies in Sarajevo range from 7 to 20. Given the population in Sarajevo and extrapolating these numbers on a nationwide basis would indicate that there might be 50 to 60 legitimate, registered companies. Each company has 4 to 5 individual agents or staff members. There are no dominant firms but several that have at least one or two branches in Sarajevo. Because most of the companies are relatively small, the number of transactions per month is also quite



small. Considering the average number of transactions and costs times the commission rate, that companies in the Sarajevo market might average between \$25,000 to \$40,000 per annum and in the smaller markets, between \$15,000 to \$30,000.

Because the companies are very small, the organizations are informal. Three firms reported that they had at least one additional branch but those branches only had 23 people in each. Each broker interviewed indicated that they worked with all forms of real estate, including commercial. However, they also indicated that the bulk of their business was residential real estate. Many firms also had one, two or three people that focused on rental properties. That market has declined somewhat in the past two years as rental rates have dropped approximately 50 percent, thereby cutting back on the fees they receive from this activity.

The brokers are very leery of contract enforceability through the court system, although they do recognize that the laws exist for them to enforce the contracts. As previously discussed, courts move extremely slowly and are bogged down by many activities, making the pursuit of a small commission impractical to the practitioner. Every broker complained of sellers who were “immoral” in that they would sign a contract and then refuse to pay, many of them leaving the country immediately after the closing.

#### **4.3 Access to Land**

A key finding of the 2000 FIAS study of administrative barriers to investment, as found also in all of the countries of the former Yugoslavia, was that local businesses considered access to land (and building permits) to be a major impediment. This finding was confirmed in the present investigation.

Undeveloped municipal land still has not been denationalized in BiH and remains in state ownership, subject to the right of the municipality to allocate the land by several methods as agent of the state. Both the Federation and RS now have laws on urban construction land which are essentially the same law, and which establish the principles that: (1) building owners are considered to also own the land under their building; (2) holders of rights of use to undeveloped lands created prior to 1992 have a temporary right to use the land and a preferential right for construction; and (3) other undeveloped urban lands are to be allocated by the municipalities primarily through competitive procedures under short term construction leases which will convert to ownership upon completion of construction. Accordingly, the legislative framework appears to be mostly in place for divestiture of surplus municipal lands. Nevertheless, to date the lack of access to land and the long delays in acquiring rights to undeveloped municipal land for investment is noted as an impediment to business development.

Possible approaches to encouraging further divestiture of undeveloped state and municipal land include:

- Undertaking pilot programs in selected municipalities to develop the procedures and documentation for competitive land auctions. Programs to develop municipal capacity for conducting competitive land auctions in other transitional countries throughout the E&E region have included assistance with identification/inventory, market assessment and valuation, preparation of auction rules and procedures, preparation of modern land use and construction parameters, preparation of legal documentation, and implementation of the auction.
- Creating a single municipal agency (one stop shop) responsible for creating and maintaining a current inventory of property available for investment and marketing real estate investment opportunities. This effort could be tied to efforts currently underway to develop investment promotion agencies. The objective would be to separate this function from the planning bureaucracies which presently control land allocation and which have neither the marketing skills nor incentives to promote divestiture.
- In cases where there is a clear lack of incentives for the private market, some experimentation could be undertaken with municipal redevelopment agencies. For example, the agencies would be responsible for clearing and servicing underutilized municipal land and making sites available to investors; the approach should be competitive and at least assure recapture of costs. The municipal



development agency is a standard model used in developed economies to promote redevelopment. A starting point for such an agency could be an industrial park.

- Assisting the municipalities to develop real estate asset management plans, which would consist of inventory, assessment of current uses and long term municipal needs, valuation, market analysis, and creation of a marketing and divestiture program. This would be coordinated with assistance on competitive allocation procedures.
- Undertaking a process analysis of current procedures for issuance of land use and building permits. Access to the land site is only one step, and as many complaints are heard about the process of obtaining land use and building permits. The process is generally held to be too long, unpredictable and often arbitrary, and expensive. This issue is endemic in the region and grows out of the land use rules and procedures of the former Yugoslav state, which emphasized control over private initiative. A systematic review of the process with an objective of justifying outmoded rules and procedures, eliminating duplications, and conforming it to modern best practice could result in greater efficiencies and would complement work on encouraging further land divestiture. Regarding the costs of the process, a systematic review of the costs in comparison to similar costs in developed economies might serve to identify the key problems and suggest other approaches. (Note that attention to the fees and charges of the land development and construction process could complement efforts to improve the real property tax system.)
- Assist with accelerating privatization of land plots under owned buildings. The privatization of land under existing buildings can be a good source of land and business facilities through the process of redevelopment and adaptive reuse. Experience in other transitional countries has shown that completion of the privatization process is easier said than done, with various delays arising due to disputes over titles and boundaries, and general foot-dragging on the part of local bureaucracies. A focused program designed to accelerate the privatization process could result in injection of new lands into the private market. This is particularly true with regard to privatization of enterprise occupied lands.

It should be noted that many of these issues may be addressed by the upcoming USAID local government project

#### **4.4 Real Estate Development: Developers And Legal And Illegal Construction**

There is a development community that is alive and well in BiH. Most developers are purely private sector companies with the exception of one former state owned company in which the state still retains a minority interest. There are 5 to 6 larger companies that have development capacity in the marketplace. Most of these are organized as civil engineering and construction companies that also build for their own account and ultimately re-sell the property. Triland is the one company that is purely for development and that has all the capacities of a development company. They are owned by Trammel Crow in the United States and have a \$30 million project in planning now. Several of the development companies interviewed showed a high degree of sophistication. They understood baseline financing and in some instances had merged a number of functions into an overlay development company. They participate not only in the approval processes, construction and development, but also do end-out sales on the projects.

An extensive approval process is required for obtaining the appropriate permits and a substantial fee is required (see the discussion below in section 4.5). A second permitting fee is then required for final plans for the actual project. Many times there are multiple levels of approvals, from the municipality to the canton, required before a major project can move forward. One developer indicated that a court hearing was held where anyone that had any claim whatever on restitution could appear before the court and demand compensation. (Land restitution issues are still very complicated in BiH. Some claims go back over 200 years and a major developer indicated that not only do they need attorneys on staff but also someone with the background to determine who might have an ownership interest in a property that they might want to develop.) As discussed above, a flawed registration process in BiH is one of the major hurdles in finding property to develop.



There are currently about 350 units under development by the major developers. The largest is a multiple-story project called Bosmal Towers, built with Malaysian capital. There are a number of smaller, individual developments that are either substantial rehab or medium sized housing developments. Most of the development is for Western style users. Generally the quality of development is quite high and it meets Western standards. BiH has a history of quality construction and it is reflected in the new product that is being brought on-line.

#### **4.5 Taxes And Fees On Development And Construction**

Developers complain bitterly about the usage, permitting and final approval processes and the considerable time and expense that they must incur to obtain final permits to build. This process is burdened both by a variety of fees and numerous meetings. Also, there are frequent “turn-downs”, resulting in a “starting over from square one” system when personnel or agencies of government change.

The small developers complain that the permitting process is so expensive and extended that they cannot maintain control of the properties that they would like to rehab or develop on a timetable that will satisfy the needs of the potential end users. As a consequence, it becomes difficult for them to finance projects and move them forward.

At the time of purchase, fees are charges for the court to approve the purchase, for registration, and for transfer of ownership. At the development stage, there are construction permit fees, fees to approve building plans, and fees to prepare a survey of the property. After construction, there are technical inspection and occupancy fees. If there is a mortgage, there are appraisal fees, court fees for approval of the mortgage, and mortgage registration fees.

Administrative procedures are reported to be arbitrary and non-transparent, and vary greatly from municipality to municipality. Cantonal authorities also sometimes inappropriately intervene in this process, adding to a developer's expenses and uncertainty. One developer reported that after all fees had been paid and permits obtained from the municipality, the canton forced him to start the process over again at that level. Because of expense, lost time, and uncertainty of outcome, he decided to abandon the project.

Developers indicate that the required approvals number in the 100's on a complicated project and can take between 2 to 5 years, all at a substantial cost. There are several layers of fees and approvals that need to be obtained during the development process. Before construction, a Location Permit must be obtained from the Building Authority of the relevant District. This is a lengthy process that may be speeded, according to several sources, if engineering assistance is provided by either an employee of the municipality or a relative of an employee. Following the Location Permit is a Building Permit. This requires full plans, engineering and appropriate studies and the payment of either 155 euros/m<sup>2</sup> or 205 euros/m<sup>2</sup> for the buildable area. Finally, an Occupancy Permit is required following tests of the building structures and system.

A detailed analysis has been conducted by FSBAT of the steps required under the law, the time required for each step, and the fees levied at each steps, supports the developers' complaints. A diagrammatic representation of the entire process is provided as Annex II. In summary - by law – at least 174 to 304 days are required for building permits and registration, although each of the steps could be longer than noted in the diagram. In addition, in this example, total administrative fees and other costs equaled KM 5514 to 7514.

*In sum, developers are able to plan and execute quality construction. However, without streamlining of processes, improvements in the policies and regulations of the various government entities involved in approvals, and rationalization of fees, the development community cannot move forward and contribute as effectively as possible to the economic well-being of Bosnia*



#### 4.6 Property Taxes

Real property taxes are local taxes going to cantonal and municipal governments. They are not ad valorem, but rather are assessed on the basis of normative amounts multiplied by the number of square meters of the taxed property. Only improvements, not land, are taxed, although there are separate charges assessed for the right to use municipal land for construction, which is in the nature of a tax or rent. Use rights are acquired through competition/ auction and the fees may be negotiated.

In the Federation the real property tax is assessed only against second homes or real estate held for rental, and not primary residences. The RS does tax personal residences. In some cases, in both the Federation and the RS, the normative tax is established on the basis of tax zones, injecting some element of valuation into the calculation, as the zones are typically distinguished by quality of municipal services and other real property valuation factors.

In addition to the real property tax, some municipalities impose various communal service charges for public goods and services (e.g. roads, parks and landscaping) that would typically be funded by the real property tax. These charges are assessed in the same way as the real property tax and are also frequently differentiated by location based on the quality of the municipal services provided in a district.

The real property tax and related charges are not a major source of local revenues at this time. In many ways the tax is a blunt instrument of revenue collection, in that the normative approach and large assessment districts or zones frequently result in either overvaluation or undervaluation of many properties. The many different charges imposed to supplement the property tax and fund public services make for a complex and confusing set of charges having essentially the same purpose. It is not clear how much of the value added to real property by municipal services and improvements is captured by the current collection of taxes and charges.

The inability of local governments to capture the value added to real estate from public goods and services has, in other places, led to certain dysfunctional results, some of which are evident in BiH. For example, as noted above, there are many complaints that the new development process is characterized by numerous fees and charges assessed along the way for reviews, permits, approvals, connection rights, etc., and that these charges are becoming a disincentive to investment. In effect, the greatest burden for supporting public goods and services is put on the next project in line, and not fairly distributed over all existing property and new projects

Creation of a single value-based real property tax, which would include both land and structures, could have several benefits, including greater transparency, simplification of administration, and less distortion between taxation of new projects and existing properties. The modern approach to value-based real estate taxation in transitional economies has been "mass appraisal" methods that rely on existing property records to identify key indicators that allow distinctions among properties.

A real property tax project could be coordinated with the ongoing land register project being implemented by GTZ, or a component of any new registration project that may be planned. Much may depend on the type and quality of the data in the land records. While the land registry in many parts of BiH is being reconstructed and is often unreliable, there are a number of other relevant data sources that may be available, including the construction land user fee and the property transfer tax that could support development of a mass appraisal data base. It appears that mass appraisal property tax projects have proceeded in Serbia, Croatia and Kosovo on the basis of those records.

*In sum, the whole issue of revenue-generating power for local governments is unclear and somewhat subject to interference by cantonal and entity authorities. Coordination with the upcoming local government project, which will have a property tax component, would be the best way for USAID to address this issue.*



#### 4.7 Appraisal Policies

Approximately 150 to 200 appraisers operate countrywide. These are independent “court appointed experts”. Appraisers are regulated by the Law on Requirements for Performing Court Expert Duty. In addition to the general requirements for employment in administrative bodies, the following special requirements must be fulfilled for appraisers:

- having the necessary expert knowledge and skills to provide findings and opinions in a specific type of expertise;
- by his professional and human qualities, having the dignity and reputation of a court expert and being expected to perform the expert examination truthfully, objectively, regularly and in a timely manner; and
- having the appropriate university degree and having worked on the expert jobs for which he had been educated for at least five years.

Most of the appraisers are civil engineers that generally rely on civil engineering background to do replacement valuation minus depreciation. No appraiser recognized TEGOVA (The European Group of Valuers Associations) standards. They did recognize the basic appraisal methodologies although when it came to the income approach, they did not have a good understanding of how that method worked, indicating that few of them used the income approach. The reports viewed were relatively thin, with reasonable detail on replacement analysis and depreciation, but inadequate detail of comparative sales and no information on the income approach. They would not meet European or U.S. standards. There is no code of ethics or standards of professional conduct for the practitioners in the field. Also, there is no enforcement mechanism in place for professional standards except that the “court expert” status has to be renewed every four years.

Finally, there are no appraisal associations, although the interviewees indicated that it would be extremely beneficial for them to come together. They were also eager to learn about methodologies and standards so that they might be more competitive both within the country and to outside investors coming to the country. While the court appointed experts do have some skills, it is clear that they very much need training and an understanding of the basic standards and methodology of appraisal. All valuers and the brokers that work with valuers indicated a need for stronger, professional appraisal training at the beginning, intermediate and more sophisticated level. If an association could be formed in conjunction with the brokers, certainly this remedial, intermediate education could be begun immediately and the international standards of practice, including the Appraisal Institute's 11<sup>th</sup> Edition text, translated into Bosnian. This would provide baseline information for the growth of industry.

Banks have staff appraisers who also appeared to rely on the replacement minus depreciation methodology, with an occasional look at comparable sales information that was often times gleaned by talking to neighbors on an anecdotal basis. Some appraisers and brokers felt that the banks' appraisers actually valued between 30-50 percent below the market. There were no full-time, private appraisers practicing in a company that were able to be located during the assessment process.

The appraisal fees are between \$75-150 per appraisal and the largest fees are approximately \$2,500. Court appointed fees are notoriously low and each “expert” indicated that the assignments were few and not profitable.

#### 4.8 Real Estate Databases

As would be expected, real estate databases are not yet developed. Only one company indicated that they had a sizeable database: 3,000-3,500 properties. Others said that they had paper records of what they had sold since they had started business.

However, in BiH brokers willingly co-broke with each other, which is a positive development. Typically in this region, this is not the case and if there were co-brokerage it would be on an extremely limited basis among two or three of the leading companies. The situation in BiH, however, bodes well for working



towards a common data system (MLS) that could bring additional transparency to the market and improve the quality of appraisal.

## 5.0 REAL ESTATE LENDING

### 5.1 Overview

Banking sector reform, as well as Central Bank regulatory and supervisory policies, are areas in which BiH has achieved considerable progress. Consumer lending is growing, including for mortgage loans and housing-related consumer loans. The highlights of the achievements include the following:

- Collateralized mortgage lending is now underway, for residential purchases and for use of real estate as collateral in SME loans. In addition, many “consumer” loans are being utilized for housing purposes.
- Real estate lending is dominated by the large foreign banks, bringing international underwriting and servicing skills to BiH. Lenders are competing for consumer (as well as corporate) lending, which ultimately is of great assistance in decreasing spreads;
- However, as discussed below, the growth of real estate lending is limited by the legal and administrative problems, especially those plaguing foreclosure and registration. Fears concerning foreclosure and lack of documentation adequate for a mortgage loan, have forced banks to take other approaches. There are two basic types of housing loans: “cash” loans for housing are smaller and of shorter tenor than “mortgage” loans. Both types of loans require 2 to 4 guarantors as well as other terms and conditions. In addition, a reluctance to report total income, and the substantial amount of informal income, limit both the number of qualifying clients and the size of the loan that can qualify. *Thus, the effectiveness of mortgage lending as a driver of economic stimulus and a support to SME development is much more limited than might be the case if the underlying problems were better addressed.*

### 5.2 Financial Sector Context

Bank consolidation has been rapid. As of Q3 2003, there were 27 licensed banks in the Federation<sup>8</sup>, half the number of several years ago. The system is now dominated by private, foreign capital, as major foreign banks often entered through purchase of local banks. The ownership structure in terms of total capital (as of Q3 2003) was 16 percent state ownership and 84 percent private or predominantly private. The ownership structure of the capital is even more revealing: 13.1 percent is state capital, 19.8 percent is private capital of BiH residents, and 67.1 percent is foreign capital.<sup>9</sup> The largest banks include Raiffeisen (largest in terms of assets), Zagrebacka, and Hypo Alpe-Adria (largest in terms of capital); Volksbank has also entered the competition but is still considerably smaller. UPI, a local bank, is also smaller than the big three foreign banks, but still a player in the market.<sup>10</sup> In the first 9 months of 2003, 73 percent of the growth in assets accrued to the five largest banks, while assets fell for the remaining banks.<sup>11</sup>

Table 1 shows bank loans outstanding and their growth since the end of 2002 through Q3 2003. The rate of growth of loans to citizens had been very high in 2002; the statistics reflect the fact that lending was starting from a small base, however, and the rate of increase has since slowed. The Banking Agency estimates that about 40 percent of the loans to individuals are housing-related loans, some classified as housing loans and others classified as consumer loans but actually used for housing purposes.

<sup>8</sup> Banking Agency of the Federation, op.cit.

<sup>9</sup> Banking Agency of the Federation, op.cit.

<sup>10</sup> FSBAT has carried out considerable analyses of the banking system; these data were taken from an analysis of bank expansion plans carried out by FSBAT.

<sup>11</sup> Banking Agency of the Federation, op.cit.

**Table 1: Bank Loans Outstanding**

Total Loan Portfolios (in 000,000 KM)

Loan type	As of 12/02	3/03	6/03	9/03
Corporate Loans	1,328	1,398	1,463	1,552
Loans to Individuals	1,260	1,360	1,508	1,598
FBA Estimate of Housing Loans	504	544	603	639
Other	104	97	115	119
<b>Grand total Loans</b>	<b>2,692</b>	<b>2,855</b>	<b>3,086</b>	<b>3,269</b>

Source: Federation Banking Agency, Sarajevo, internal data analyses as of Q3, 2003. Housing loans are estimated at 40 percent of loans to individuals.

The economic context for expansion of bank lending presents a mixed picture. The real growth rate of GDP has slowed in recent years but is positive, and inflation has been reduced to a very low level. On the other hand, the current account deficit is large, such that the IMF considered curtailing the expansion of credit, but has not done so yet, based on the slowing in the growth of consumer credit.<sup>12</sup>

### 5.3 Mortgage Lenders, Underwriting Criteria, and Mortgage Loan Products

The approach to mortgage lending by all the banks involved is very conservative. As discussed below, banks favor high income applicants, often from among the bank's corporate clients. Borrowers must be formally employed and depending on their circumstances and the loan amount, must find 2 to 4 guarantors, all of whom are similarly conservatively underwritten. The conservative approach to mortgage lending greatly limits its effectiveness. As noted, however, the constraints do not rest in banking expertise, but in the fundamental enforcement and registration problems that have been discussed above in section 3.0. In sum, most of the problems are external to the banks. The banking sector practices and expertise are generally appropriate to BiH's current risk circumstances, and are similar to the lending procedures observed in Serbia and Croatia.

**Mortgage Lenders.** The Team visited banks offering mortgage and housing loans in Sarajevo, Mostar, and Banja Luka, (which in itself is representative of the role still played by the separate entities). Please refer to the annex for a list of banks that were interviewed. The banks were cooperative, and anxious to relate the details of their loans and the problems they face. In some cases the Team was able to interview two or three different bank staff: those responsible for retail loans, which include the mortgage loans; those responsible for corporate loans, which include SME loans; and the bank's lawyers, who are ultimately responsible for default and foreclosure.

**Conservative Approach to Real Estate Lending.** Banks in BiH have generally adopted an over-collateralization approach to lending, and, as noted, focus their marketing on upper income groups and favored corporate customers. Mortgage loans are offered only to clients with multiple guarantors and often require other collateral as well, including compensating balances, bills of exchange, and other real estate. Employment must generally be in the formal sector, and in some cases, employment at bank-financed corporations. Loan-to-value (LTV) ratios generally range from .50 to .80, terms from 10 to 15 years, and interest rates are currently around 10 to 12 percent.

There are nearly always additional up-front fees pushing costs higher. The banks have devised numerous schemes for "risk-based" pricing, varying the interest rate with the size of the loan and the size of the compensating balance. Also, the number of guarantors depends on the size of the loan and various characteristics of the borrower, and upfront fees may vary according to loan size or whether the borrower is a bank customer.

Observation of newly-formed mortgage finance systems in many transition and emerging markets indicates that banks remain very risk averse even after the components of the legal and administrative

<sup>12</sup> IMF, "Bosnia and Herzegovina: Second and Third Review under the Stand-by Arrangement", IMF Country Report No. 03/204, July 2003.

infrastructure start to fall into place. Thus, it cannot be expected that real estate finance will reach very far into the income distribution in the near future.

**Foreclosure and Default.** There are often different views among staff in the same banks as to the extent to which foreclosure is a problem in their mortgage lending. Bank lawyers often noted that foreclosure was a less serious problem than those responsible for retail lending. It seems that in the view of bank lawyers, foreclosure is “legally” possible, although there have not been many cases of foreclosure in residential lending. The retail loan departments responsible for housing lending, on the other hand, tend to view foreclosure as a social as well as legal issue. They fear for the bank’s reputation in the face of a social backlash from foreclosing on a family’s residence. There may also be problems selling the vacated property, especially in less urban areas. Herein lies the impetus for seeking multiple guarantors and compensating balances as collateral: on a defaulted loan, the retail personnel universally noted that they go after the deposits and the guarantors before considering enforcing a foreclosure.

**Exemplary Terms of Mortgage Lending.** To gain a better understanding of the terms of “mortgage” loans and “cash” loans for housing, a few specific examples of loan terms from Hypo Alpe-Adria, Raiffeisen, and Zagrebacka follow (as of February and March 2004):

- **Hypo Alpe-Adria, Mostar.** As of the end of 2003, 26.3 percent of the retail portfolio was housing loans and 58 percent was cash loans. Only 1.14 percent of its loans were provided to “entrepreneurs” (presumably these are self-employed persons). Hypo distinguishes loan types according to whether or not compensating balances are in place.

(a) Housing loans with no deposit. The term is up to 10 years, the interest rate is 10.65 percent, and there is an upfront fee of 1.8 percent of the loan balance. Two guarantors are required for loans up to KM 10,000 and 3 guarantors for loans over this amount.

(b) Housing loans with deposits. The term is up to 15 years and the loan amounts range from KM 10,000 to 200,000. Three guarantors are required for loans between KM 10,000 and KM 99,999 and 4 guarantors for amounts over KM 100,000. The interest rate varies with the size of the deposit: for a 10 percent deposit, the rate is 10.5 percent; for a 15 percent deposit, 10 percent; and for a 25 percent deposit, the rate falls to 9 percent. There is a fee of 1.5 percent of the loan amount, except for independent entrepreneurs, the fee increases to 2.0 percent.

- **Raiffeisen.** Raiffeisen’s terms also differ according to whether compensating deposits are provided, as well as the existence of a mortgage and whether the borrower is a bank customer.

(a) Housing loans without deposits. Housing loans are offered for KM 5,000 to KM 300,000. The loan size varies according to whether there is a mortgage: loans with no mortgage face a ceiling of KM 20,000, whereas loans with a mortgage can reach KM 300,000. Terms are 7 to 10 years at an interest rate of 10.5 percent, which is fixed for three years and variable thereafter. Up front fees for bank customers are 1 percent, and 1.5 percent for others.

The number of guarantors required varies with the loan’s characteristics. Three guarantors are required if the loan exceeds KM 50,000 or if the term exceeds 5 years. Smaller loans with shorter terms require 2 guarantors.

(b) Housing loans with deposits. The loan size and term are the same as those above. However, the interest rate varies with both the amount of the compensating balance, whether the savings are in Raiffeisen or taken from the loan balance, and the term. The lowest interest rate (8.49 percent) is offered for a bank saver on a 7 year loan with a 20 percent deposit. The highest rate (9.99 percent) is for those with savings taken from the loan, with a term of 10 years and a 10 percent deposit. The upfront fees also vary: 1 percent for bank savers, 1.5 percent for others.

- **Zagrebacka, Mostar.** Zagrebacka also provides typical examples of cash loans, which are frequently used for housing-related purposes. Loans without mortgages would qualify only for cash loans.

(a) Long-term cash loans. The loan ceiling is KM 20,000, with a term of up to 5 years and an interest rate of 11.49 percent. If the borrower is a client of the bank there is no deposit required, but for non-customers, there is a deposit of 10 percent. An authorized salary pledge is required. Two guarantors are required if the borrower is a bank client. Three guarantors are required. In underwriting the guarantors, the payment to income ratio for the loan cannot exceed one-third of the (net) salary. A two percent fee is imposed.

(b) Short-term cash loans. The term is up to 12 months at a rate of 11.99 percent and a loan maximum of KM 5,000. Two guarantors are required as well as an authorized salary pledge and a bill of exchange. Similarly, a two percent fee is imposed.

**Summary.** In summary, a majority of households will clearly face a number of barriers in attempting to qualify for a mortgage loan. Presumably, SME loans using property as collateral will face similar requirements.

- mortgage loans require the proper documentation, thus highlighting the barriers presented by the registration issues;
- 3 to 4 guarantors are required for loans large enough to purchase a dwelling;
- without documentation and without the requisite number of guarantors, households are eligible only for small, short-term loans – presumably used for renovation rather than purchase;
- large amounts of cash are required, both for the down payments and the compensating balances; and
- formal employment, and even a requirement for employment at one of the bank's corporate customers are required.

One final issue should be mentioned, as it may ultimately undermine the use of guarantors to reduce credit risk. There is no central registry of guarantors, so that there is no systematic way of telling how many loans a guarantor has “guaranteed”. One bank indicated that it made informal inquiries with the lending departments of other banks. It is likely, however, that increasingly banks will face unknown credit risks as lending with guarantors increases.

**Long term capital and EBRD syndicated loan.** At this time, sources of long term funding appear to be adequate to support the mortgage market. The large foreign banks with which we spoke indicated that there was no shortage of funds at the current time, relying mainly on funds from parent banks. In addition, Raiffeisen has recently received (in December 2003) the first syndicated loan in Bosnia, lead by EBRD. The Euro 45 million loan is intended to help the bank's access to long-term funds. The EBRD will directly lend Euro 15 million and the remaining Euro 30 million is being syndicated to nine banks from five countries, including the Netherlands, Portugal, Germany, Austria, and India. (The EBRD is the largest investor in Bosnia, with Euro 241 million invested in 32 projects.)

However, especially for local banks that do not have access to lines of credit from international parent banks, lines of credit from international development banks (IFC and EBRD) are viewed as limited and transitional. Other sources of long-term funds will eventually need to be found to avoid maturity mismatches.

**Construction Lending.** Many banks do not engage in construction lending at all, because of uncertainty about titling and ownership of unbuilt land, and fear that the developer will be unable to obtain the necessary permits. The few banks that do provide construction financing, such as Hypo Alpe Adria, have elaborate safeguards in place. The following documents are typically required: Certificate of Approval from the Municipal Urban Planning Commission; the construction permit; the land use permit; certificate of registration in the Municipal Department for Legal and Property Affairs; and a certificate of registration of the use permit in the Land Book. The borrower must enter into an agreement with the bank to complete the construction within a certain time period, and to register the property as soon as it is complete. In



developed real estate markets, construction lending is a common practice, based on the developer's rights to the land being developed and an automatic conversion of lien rights to property as it is constructed.

As an example of terms, Raiffeisen offers construction loans for up to 24 months at interest rates of 10.25 percent for a 12 month loan and 10.75 percent for a loan over 12 months. There is a fee of 0.5 percent of the loan total; the LTV ranges from .65 to .80. The mortgage must be registered immediately upon obtaining the building inspections certificate and dividing the building into floors.

**Serious Deficits in Information.** Casual observation certainly suggests that income levels in BiH are higher than official statistics suggest. It is difficult, however, to tell how much of an inroad into the income distribution that mortgage and consumer lending is making because we cannot determine what proportion of the population would theoretically qualify on the basis of their income. And this leaves aside, of course, the problems of obtaining large numbers of guarantors and offering large cash balances. It was not possible to undertake an analysis of the affordability of housing loans: there are no reliable data on income or the income distribution per capita, and none at all on income at the household level, which is the unit of analysis needed for an assessment of affordability in the population. Furthermore, as noted above, income is under-reported for a variety of reasons, but mainly tax avoidance, and most banks will underwrite loans based only on "formal" income.

The World Bank has conducted its traditional Living Standards Survey in BiH, which is in fact based on the household as the unit of analysis. This survey provides a proxy for income based on total consumption – in other words, surveyed households answer questions as to how much is spent on a detailed series of consumption items (food by type, housing, clothing, fuel, etc.). A sum is then tallied, which serves as a measure of "income". However, although mean household income was provided for several groups, the data did not provide a national distribution of household income.

Thus, we cannot guess at *effective demand* for various types of loans.

USAID might consider assisting with a survey to get a better picture of overall real estate lending and SME loans collateralized with real estate. Useful information would include:

- number of real estate and SME loans by type and size;
- total applicants and number of applicants refused a mortgage loan because of lack of acceptable guarantors and/or adequate title registration; and
- number of SME applicants refused a loan with property as collateral because of title defects

## 5.4 Real Estate Lending Support Functions

**Credit Bureau.** The LRC, the Credit Bureau, is a private endeavor and a regional first. LRC gets somewhat mixed reviews, however. Not all banks yet belong, and there are a few holdouts among the big banks. It is not clear, however, whether this is because the information able to be obtained from LRC is inadequate and not cost-effective or whether the banks with the largest portfolios of retail clients prefer not to participate for competitive reasons. An earlier report suggested that LRC had some general system deficiencies.<sup>13</sup> However, the team interviewed the LRC management and it appears that many issues have been resolved.

The LRC Agency is very knowledgeable about best practice of US and European credit reporting and operates in compliance with US and EU rules and procedures, but does so voluntarily through its internal operating procedures manuals and not because of law or regulation. There is a high level of consumer protection provided and a genuine effort is being made to educate consumers about their rights. However, the absence of a law on consumer credit reporting may have some undesirable implications for the future. A modern law on consumer credit reporting is intended to protect both consumers and the reporting agencies. Consumers are provided with the rights to be advised of the contents of their files, to

<sup>13</sup> "Suitability of LRC Credit Bureau for the Banking Sector in Bosnia and Herzegovina", Financial Services Volunteer Corps, (undated).



demand changes as necessary, and to be compensated for damages caused by negligence or bad faith. Bureaus, on the other hand, are protected against nuisance lawsuits on the basis of small errors which are made in good faith and which are practically unavoidable in large, complex systems. Banks and other credit providers are protected against liability for divulging consumer information in possible violation of other privacy laws. In effect, western nations have decided that the consumer credit reporting system is an important public good and needs certain protections to operate.

There is little or no law governing creation and operation of credit reporting bureaus. There are apparently laws on protection of personal data and on government statistics which establish rules for preventing unauthorized disclosure of data by depositories and data manipulators, and which are applicable to government as well as private sector operators. The law on protection of personal data, which was not available to us, is a key component of the national "CIPS" (Citizens Identity Protection System) program, which focuses on the creation and use of national identity numbers and the collection and dissemination of some kinds of personal information. As described, however, it does not appear to directly regulate the operation of consumer credit reporting agencies to the same extent as would, for example, the US Fair Credit Reporting Act or the EU Data Privacy Directive.

LRC advises that in three years of operation it has not been sued for errors in credit reports. This may be true, and it may reflect good performance, but it may also reflect good luck. The agency is not protected in any way against lawsuits for errors, and it is possible that a single adverse decision could increase the business risk considerably. Similarly, there is no apparent legal safe harbor for data providers (banks, vendors, credit card issuers, utilities) to deliver data to a credit reporting agency, and most of this is done today simply because no law prohibits it. (Some of the larger banks have declined to participate in the system, but it was not possible to determine whether it was because of perceived risks.)

At the same time, consumer protection is based largely on the good faith of LRC, and not on law or regulation. LRC presently will release a credit report only with the written consent of the consumer, obtained by the creditor at the time of loan application. Presumably this means that information is not being sold to other parties for marketing purposes. However, the allure of large profits from multiple uses of data bases, particularly marketing, may be difficult to resist at some point in the future as consumer markets develop.

We suggest that BiH review the current legal regime for consumer protection as well as protection of the emerging credit reporting function and if advisable develop a comprehensive law on consumer credit reporting.

**Bankers Association.** At present, eight banks which represent over 70 percent of bank assets are members. The group is trying to form an association at the state level. Throughout CEE, banks associations have generally played an important role in representing the sector.

**Property Insurance.** The majority of banks do not require property insurance. The reasons cited are that it is not widely available yet and/or that it is very expensive. This is a serious collateral risk issue that should be addressed by the regulators.

## 6.0 SECONDARY MARKET DEVELOPMENT

Financing mortgage lending through longer term borrowing on capital markets is a means of avoiding maturity mismatches between short term bank deposits and long term mortgage lending. It appears that at this time mismatches are not yet a source of concern, for several reasons. One is that mortgage lending is presently such a small part of bank lending that it does not constitute a management problem. Secondly, foreign banks, which are among the most active in mortgage lending, have sufficient access to longer term funds from their foreign parents. Finally, a good deal of present mortgage lending is covered by long term line of credit facilities provided by international development agencies, including the IFC and the EBRD.

It is reasonable to assume that mortgage portfolios will increase in size, and aid from international donors will not expand to meet demand. Foreign owned banks may continue to have easy access to longer term funds through arrangements with parent companies, or better access to European capital markets. Local banks may be left with the choice between limiting mortgage lending or somehow extending the maturity of liabilities, and could therefore benefit at some point from access to local capital markets for mortgage finance. While there is the possibility that all banks would have access to broader regional or even European capital markets to place mortgage securities, that possibility seems some number of years in the future given the small size of the primary mortgage market, lack of performance record, and the stringent demands of established European markets.

### 6.1 Capital Market Profile

The BiH capital market is best described by what it presently lacks. There are no: state, municipal or corporate bond; yield curve; benchmark debt instrument; sovereign debt rating; institutional investor; mutual or investment fund (other than a handful of closed end privatization voucher funds listed on the Banja Luka Stock Exchange); derivative or other interest rate or currency hedging instrument.

As with many institutions in the country, there are two securities regulators and two stock exchanges (Sarajevo and Banja Luka). Turnover on the stock exchanges is limited at this time.

Turnover and Capitalization on Regional Stock Exchanges, February 2004 (Million Euros)		
Exchange	Turnover	Capitalization
BiH (Combined)	7.9	1,016
Belgrade	38	1,574
Ljubljana	119	10,800

Source: Stock Exchange Monitor, [www.sem-on.net](http://www.sem-on.net)

There are no debt instruments traded on the BiH exchanges. Unlike neighboring Serbia, BiH has not issued state bonds in compensation for foreign currency bank accounts confiscated by the state, and which in Serbia have become an actively traded benchmark debt instrument, or short term (60-180 days) treasury securities. In comparison government issued foreign currency bonds and corporate notes make up the bulk of transactions on the Belgrade Exchange. Thirteen bond issues trade in Belgrade and 94 in Ljubljana. There are no investment funds traded on the Sarajevo exchange. While 13 funds are listed as traded on the Banja Luka exchange these appear to be limited to closed end privatization funds and largely inactive.

### 6.2 Potential Investors

At this time there are few, if any, potential investors in mortgage securities. Mortgage securities typically are not retail investments. The current pension system is "single pillar" and pay as you go; there are no private pension funds. There are no mutual or investment funds that would be capable of investing in mortgage securities, and the insurance industry is still a relatively insignificant player in on the capital market.



Banks may be a potential market for mortgage securities, but whether it will be in the interests of banks to convert their mortgage loans to mortgage securities may depend on a number of issues which have not begun to be addressed, including the possibility of arbitrating risk based reserve requirements, treatment of mortgage securities in calculation of bank capital, the costs of conversion (including taxation) and the liquidity of the mortgage securities markets. Conclusions on all of these issues would be speculative at best at this time.

### 6.3 Legal Framework

Securities market regulation is done at the entity level, not the national level, and the legal basis for capital markets consists of a variety of laws and regulations in each of the entities. Each entity has its own laws on legal entities/companies, securities markets, and securities commissions. RS has a law on privatization investment funds while the Federation has a general law on mutual and investment funds and fund managers. Each Securities Commission has adopted regulations to implement its entity level law, including for example regulations on registration of securities and clearing and settlement.

A review of the relevant laws reveals that they are relatively modern and probably sufficient for the current stage of development of capital markets. A few specific issues that do arise under the law include:

- The FBiH securities law permits corporate debt to be secured only by real estate and securities. It seems clear that in this case neither "real estate" nor "securities" encompasses real estate mortgages. Whether a corporate debt instrument secured by mortgage receivables would be permitted is an open question.
- The FBiH law on mutual and investment funds limits investment to exchange traded securities and state and municipal bonds. In most instances where this restriction is encountered it is necessary to amend the law to permit investment funds to invest in real estate and mortgages.

Whether the fact of different laws on securities and legal entities between FBiH and RS is itself a barrier to further development of the market is a legitimate question. The entire BiH market is relatively small in itself, and further dividing it into two separate markets subject to different laws likely has the effect of increasing transaction costs for issuers and/or decreasing the potential market for the securities.

Most barriers to mortgage securities markets would arise not under the general laws of securities and corporations, but from the simple lack of experience or precedent with secured debt or structured securities of any kind. Introduction of these types of securities would probably require significant work with securities commissions and tax authorities to define their characteristics and issue appropriate interpretation, rulings and normative acts.

The pending law on pledge of movable property will be significant step in support of collateralized corporate debt issuance. That is a relatively modern law which allows pledge of security in generically defined pools of receivables, including future acquired property. The proposed law would also introduce other important procedural protections for secured creditors, including accelerated enforcement procedures, limitations on appeals rights, and significant amount of self-help in the re-possession and sale of collateral. Questions relevant to mortgage securitization which are not clearly answered in the proposed law include:

- The definition of a pledgee - whether a pledge can be made to a generically defined group or must be made to a named individual. This issue would be resolved if there were to be adopted a law which authorized pledge of security to a trustee or other fiduciary device authorized to act on behalf of security holders.
- Whether a pledge of mortgage secured instruments in the pledge registry also requires a modification to the registration of the mortgage in the land registry, which can add to transaction costs when large pools of mortgage secured instruments are transferred.



- Whether a secured creditor can hold pledged receivables for collection indefinitely, using the proceeds to retire the secured debt in accordance with its original maturity.

Even if the basic laws of securities, legal entities, and secured transactions might support some types of mortgage securitization today, these transactions would not be equivalent to mortgage securitization transactions in developed economies, where standards for creditor protection are very high. This is not to say, that given market demand from local institutional investors, mortgage securities of a lesser quality could not be successfully introduced in the market.

A main difference between the established western markets and the market that might be introduced in BiH is the bankruptcy law. The FBiH bankruptcy law reviewed during this investigation can be characterized as moderately protective of the interests of secured creditors. Aspects of the law that might be of concern to mortgage security investors in developed markets include:

- No automatic right to remove the mortgage assets pledged to investors as security from the bankruptcy estate of the issuer. This right has become standard in European systems.
- No ability of the investors to retain the mortgage asset for purposes of collection and payment of the mortgage securities in accordance with their original maturities. The BiH law appears to require liquidation of collateral in every case, exposing investors to market risks.
- Significant mandatory deductions for costs and commissions upon sale of property contained in the bankruptcy estate.
- Vaguely formulated transaction nullification provisions which reach back long periods (4-5 years) prior to commencement of the bankruptcy case.
- Complex rules on debtor reorganization which could result in loss of position for secured creditors.

In some of these cases the bankruptcy law is not unusual, but it is because of these provisions that many systems have provided exemptions from bankruptcy proceedings for certain types of mortgage bonds and structured mortgage securities, largely as an incentive to these markets. In the absence of these bankruptcy exceptions, it would be inadvisable, for example, for banks in BiH to issue secured mortgage bonds directly, as the complexity of the bankruptcy law and the almost complete lack of experience with its provisions would throw into question the protection provided to secured investors. It would be more advisable for the banks to try to issue mortgage bonds or other securities through special purpose legal entities which could be insulated from bankruptcy claims by limitations on their business activities and ability to incur other debt. Even then, use of such vehicles raises questions regarding relationships between parent and subsidiary entities in bankruptcy, taxation, prudential regulation of banks, and other matters which have not been addressed under BiH law or regulation.

Ultimately, many of these legal issues could probably be resolved by careful transaction structuring to issue some forms of rudimentary mortgage bonds and securities which would be acceptable on local markets. The main barriers to this are not necessarily legal, but market. The absence of institutional investors has been noted. The primary market is arguably too undeveloped to support a secondary market. There is practically no mortgage default or prepayment experience yet, and probably not enough mortgage lending volume to achieve transaction economies of scale and liquidity in mortgage bond trading. It should be noted, however, that these same problems did not prevent the emergence of small domestic mortgage bond markets in some transitional states, including Latvia and Bulgaria.

#### **6.4 Central Bank Regulatory Policy**

There is presently no Central Bank regulatory policy regarding issues specifically relevant to mortgages or mortgage securities markets. Representatives of the Central Bank express the intention to fully



implement Basle I and II, in which case most mortgage securitization policies will be addressed. For example, the CB will need to address the issue of risk weighting for mortgage loans and mortgage securities. While in developed countries mortgage loans are given favorable risk weighting (50 percent) because of their assumed security, in some transitional economies central banks have declined to give reduced weighting to mortgage loans because of the difficulty in enforcing the mortgage collateral. These issues remain to be considered in BiH on the basis of further experience.

While there is no present policy on mortgage securities, there is some relevant experience. When the USAID Business Finance project liquidated its loan portfolios in 2003 it developed useful precedents in the sale of whole loan portfolios which demonstrated the due diligence, documentation, registration and notice requirements connected with sale of claims. In addition, the Central Bank apparently was willing to permit banks which bid on the portfolios to take ownership through special purpose entities, but on condition that they subjected the entity to the same provisioning requirements as the bank would be subjected to had it held the loans on its own balance. Ultimately, depending on which types of mortgage securities markets developed, the CB would need to consider issues of regulation of off balance sheet transactions and special purpose entities by banks. The Business Finance experience appears to have been a small introduction to these issues.

Rules on banking secrecy might have to be addressed. The FBiH Law on Banks, for example, prohibits disclosure to outsiders of "any information" obtained by banks. Depending on how this is interpreted it could prevent loan servicing and custodial arrangements or even the transfer of mortgage loans to non-banking entities for purposes of securitization.<sup>14</sup>

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<sup>14</sup> Under the FBiH law on banks transfer of loans and loan portfolios among banks is not specifically permitted, but all banks are permitted to purchase loans, which implies the right to sell as well. Some CB interpretive ruling may be advisable.

## 7.0 RECOMMENDATIONS

### 7.1 Organize a “Roundtable” Policy Group for the Real Estate Market

Our recommendations reflect the multi-faceted nature of requirements for improved real estate finance and real estate transactions. We do not feel there is a single major intervention, but rather actions on several closely-linked fronts. There is also a need, however, to develop an overview of policy developments in order to establish priorities, coordinate efforts in USAID programs for local government and SMEs, and improve donor coordination.

For these purposes we recommend that USAID initiate and support a “Roundtable” for policy discussion and donor coordination. The goal would be to build a more cohesive constituency of donors, counterpart champions, and local stakeholders and help coordinate the important linkages among real estate finance, SME development, real estate development, and tax policies. Thus, the Roundtable would:

- identify the priorities and commitment of local partners
- reinforce linkages among real estate finance, real estate markets, and SME development.
- facilitate coordination among USAID’s projects in local government, SME development, and real estate transactions. These linkages include
  - property tax reform development, and reform of the current fees and taxes,
  - inclusion information germane to SME development in the credit bureau,
  - promoting SMEs linked to new construction, real estate rehab, property management, real estate database information, and household survey skills;
- facilitate coordination between possible DCA program for real estate lending and SME lending, including incentives for collateralization of property in SME lending;
- facilitate coordination, linkages, and conditionalities with other donor efforts, particularly the World Bank and EBRD. Coordination with the Bank may be especially important in registration; coordination with EBRD would include lines of credit to facilitate real estate lending. BiH will soon need access to additional long-term funds for real estate lending; and
- facilitate review of, or participation in, drafting and revising the legal framework. The current case in point is the drafting and revision process for the Laws on Property, which would benefit from a review by international experts

Roundtable members would be drawn from both mortgage market practitioners and key policy makers. The members would include BiH experts in the banks, Central Bank, real estate brokers, appraisers, and also the World Bank, EBRD, OHR, GTZ, and others. The Roundtable could have different Working Groups depending on the focus of the discussions.

Finally, it will also be useful to engage key mortgage market players in the SEEMFN (Southeast Europe Mortgage Finance Network) Working Group on an ongoing basis.<sup>15</sup> The topics are highly germane to a number of the problems facing development of BiH’s real estate finance, as SEEMFN is focusing on legal frameworks in real estate lending, credit bureau development, standardization, and secondary market development.

### 7.2 Recommendations to Improve the Legal Framework

- **Reduce Court Involvement.** Propose changes to Law on Enforcement Procedure to eliminate excessive court involvement, number of hearing, and excessive judicial discretion.
- **Judicial Training.** Train judges in importance of creditors’ rights – observing time limits in Enforcement Law, dismissing frivolous defenses, enforcing alternative notice provisions, etc.

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<sup>15</sup> Please refer to the website for information on SEEMFN. [www.ceemortgagefinance.org](http://www.ceemortgagefinance.org)

Assistance under the FILE project is directed toward persons involved in the commercial divisions of BiH courts. The commercial divisions have been recently established to adjudicate commercial law cases, such as bankruptcy and pledge of movable property, in the timely and predictable manner. FILE trains judges and court staff, bankers, trustees and attorneys on related commercial law issues and in court administration and case management.

While enforcement actions against real estate collateral are handled by the civil division courts, not the commercial courts, the experience of FILE would be very useful in preparing and implementing training programs for judges, court staff and attorney working on real estate foreclosure cases. Case management techniques would be transferable from commercial cases to civil cases with some modification. Basic theories and approaches to creditors' rights would also be similar in both courts, so coordination of that aspect of the training with FILE would be very useful.

- Eliminate requirement that lender as buyer at foreclosure sale pay **transfer fees** and re-register property if sold within specified time limit.
- Adopt a modern **Condominium Law** so that owners are free to choose their own form of management and select private firms to provide this service; clarify rights to common property so that owners' associations can borrow money for renovation projects.
- Modify the **Law on Notaries** in the Federation to allow lawyers to continue to prepare real estate contracts.
- As discussed above, review and comment on the current draft of the **Law on Property**.

### 7.3 Recommendations to Improve Registration

We do not propose that USAID undertake the extensive, highly costly, and long-term effort involved in a full scale registration project. Since registration problems will continue to be a major impediment in collateralized lending, however, USAID should consider undertaking discussions with the World Bank to determine the potential for collaboration in registration efforts. Useful activities that USAID might consider include:

- Support development of the **private sector survey industry**, a likely SME activity, and sponsor an accurate and current **quantitative assessment** of the state of title registration. Only the RS permits private surveying companies to participate in the cadastre process. An amendment to the law is necessary in BiH, which is being sponsored by the GTZ registration project. There are few private surveyors operating in FBiH. It may be possible to encourage creation of private sector surveying firms through SME programs, including start up finance and management assistance; assisting the national geodetic agencies to spin off/privatize excess surveying capacity presently on the public payroll; assistance to the geodetic agencies to prepare bidding procedures for private firms in national geodetic work; etc.
- **Public Awareness Campaign.** An over-arching component of incentives to register would be the implementation of a campaign to disseminate information to owners to emphasize the benefits of registration and the consequences of failure to register. The information would include guidance on procedures, forms and data necessary for registration and how they can be obtained. Such information can be disseminated through pamphlets and posters placed in banks, city halls, courthouses, real estate agencies and the like.

In addition to these efforts, information and training should be provided to parties other than property owners who will be involved in the registration process and implementation of other elements of the incentive program. These include personnel in the registration offices, apartment building managers, persons who offer commercial services to assist with registration, notaries, real estate agents, lawyers, mortgage lenders and municipal officials who issue construction and occupancy permits.

Before these efforts are undertaken, information should be obtained (perhaps as part of the general information survey that we are recommending) to determine what problems are encountered when people attempt to register. Respondents should include a sampling of property owners, apartment building managers, notaries, realtors, and registration office staff. The results will help target activities under the public information program, and modifications to technical and administrative procedures to expedite registration procedures.

- **Apartment Registration.** Support the preparation of necessary technical documentation for registration of apartment units. A bottleneck to registration of apartment properties in the region has been locating the technical documentation necessary to register buildings and apartments, typically including building permits and building plans. In Croatia it was proposed that a special task force be created and dedicated to solving the issues of apartment registration through policy work and pilot projects. Such a task force could investigate the simplest and most cost effective means of registering apartment properties, including simplifying technical requirements and locating, producing and registering necessary technical documentation on a mass scale.
- **Consider interim legislation on national registration of mortgages** in the proposed registry of pledge of movable property. Pending national establishment of the land register it may be possible in a country the size of BiH to register mortgages on a national basis in a database supplementary to the pending register of pledge of movable property. This is a short-term approach that could be considered and developed in concert with the Ministry of Justice. (A similar proposal is under consideration now in Ukraine and will likely be implemented, with registration of mortgages on a temporary basis in the register of pledges maintained by the Ministry of Justice.) This would require special legislation. A key to this concept would be to anticipate the process of converting the central register data to the local land registers as they become capable of supporting timely and accurate registration.
- **Legal Assistance.** Provide legal assistance for would-be borrowers with registration. Subsidize the registration process for those with limited income, especially those who need to register their properties for use as collateral in SME lending. (Please see the recommendation for a DCA program in the next section).
- **Incentives to Register.** A series of positive and negative incentives can be employed to encourage property owners to register. Public awareness on the need to register to protect title can be increased through a general public information campaign on how and why to register. The public information campaign should emphasize the primary benefit to owners who register: security of title to the property they own. The public registry is the safest way to assure the protection of home ownership -- the most valuable asset that most families have. This is especially important at the time ownership is transferred. In many cases, the sales contracts are not technically correct or complete; the more time that passes between the sale and registration, the harder it may become to correct the errors.

Registration should be required to obtain a loan secured by real estate. Loans secured by real estate should be available only to registered properties. While some banks are currently taking unregistered property as collateral, apparently because of lack of clarity in the law, a developed market requires secure access to loan collateral through foreclosure procedures. In accordance with international standards, legal registration of the property and the mortgage is a fundamental element of this security.

Other “rewards” or positive incentives can be adopted to encourage registration, such as property tax “holidays” – perhaps for a year or two after registration, or lower registration fees. On the other hand, penalties can be imposed for failure to register within a certain time, to be collected when a property is eventually registered.

In Slovenia, which faced similar problems with registration, commercial services were established to assist property owners with registration. Additional information about these small private firms – how



they were organized, what services they provided, how much they charged, etc. – should be ascertained. Assistance with starting such activities could be provided by the SME project.

- **Personnel and Equipment.** Procedures used in other countries to expedite registration under similar circumstances – countries that had large gaps in registration records and overloaded courts and registration offices and overcame them or are further along in the process of overcoming them – could be used as models for BiH.

Another important element of expediting registration is to improve personnel and equipment – provide training for registration clerks in standardized techniques for reviewing registration applications, increase numbers of staff, increase staff salaries, computerization beyond the input of current, incomplete and inaccurate data being done under the GTZ project. *This would be a capital-intensive project that USAID may not wish to lead. Other donors, such as the World Bank, should be encouraged to get involved, particularly insofar as the World Bank has greatest access to successful techniques used in projects in other countries.*

#### 7.4 Recommendations for the Real Estate Market

- **Real Estate Industry.** The real estate industry is struggling to maintain profitability and to try to gain market share. Real estate practitioners feel they are significantly disadvantaged by the “black brokers” and the attorneys who practice real estate in violation of the laws. Without prompting, most interviewees indicated that the legitimate companies should organize and civilize their marketplace. What appears to be needed is to bring them together, define a common code of ethics and bring training to the marketplace to increase their effectiveness and their market share.

Association development in the brokerage community would be a welcome activity. However, the companies, because of the stagnated nature of the market, are not making considerable profits. Because the companies don't make a great deal of money, reliance on dues at the beginning of an association development would be extremely difficult. Short-term assistance to help them organize and gain stature and strength should allow them to move towards self-sufficiency into the future.

Two of the brokers in the business the longest (15-16 years) indicated that they had seriously considered getting out of the business in the last 1 ½ to 2 years. Only a couple of the brokerage firms indicated that they had a desire to grow. If there were additional precedence set in the court system on the collection of fees at the conclusion of transaction, it would help grow the brokerage business as they would have more confidence that once the services were supplied, the compensation would be received.

- **Appraisal.** There are no appraisal associations in BiH at present. The major credential that most appraisers rely on is to become “court appointed experts.” In reviewing the list of court appointed experts, there is no category for “appraisers or valuers.” There are 84 civil engineers listed as court experts from which the bulk of appraisers are drawn. Some of the court appointed architects also do appraisal. Certain city staff members hold themselves out as “valuers.” They generally rely on civil engineering background where they do replacement valuation minus depreciation. An appraisal association joined with the Real Estate Association to bring them to world standards is recommended.

BiH will be at a substantial competitive disadvantage to attract direct foreign investment without a valuation community that understands both European and world standards and develops the consistent use of accepted methodologies of valuation. It is extremely difficult for an outside investor to bring in a third party valuer from another country and rely on their judgment without having local expertise that understands the market, has an adequate data base, and the methodologies to assist an outside valuer.

To open the opportunities for better real estate finance and outside direct investment, this appraisal community must be developed. The numbers are sufficient and the interest high enough to help

underwrite the cost of an association and they appear eager to bring audiences to learn practice and methodology.

- **Property management.** BiH is set apart from the other transition markets from the property management perspective. Now 13 companies are active in Sarajevo alone and management is mandated by state law. Unfortunately, the law went as far as to set the rates for multifamily property management which leaves collections lagging behind services which cannot collect enough to provide standard acceptable maintenance. A property management association is in formulation and should be organized under the Real Estate Association to bring standards of conduct, best property management practices, and to allow better access to the government.
- Support the development of a **market-based property taxation system** to replace the revenue obtained by municipalities through the numerous fees for construction permits, planning fees, inspections, valuations, and occupancy permits. This should be considered as a possible linkage/conditionality in USAID's proposed Local Government Program. The numerous taxes and fees on real estate development and transfer should be eliminated or greatly reduced and replaced with a real estate tax.
- Encourage foreign direct investment by **removing land market impediments**, permitting foreign businesses to own land, and as noted above, streamlining the permit process and reducing or eliminating fees.
- Support efforts to resolve the issue of **restitution** to free up land and buildings for real estate development, especially in valuable city center.
- Support development of a **real estate association** in order to bring in best practice, improve processes for licensing, selling and closing, and work to improve the permitting process.
- **Improve Appraisal Process and Licensing.** Support development of an appraisers association and links with TEGOVA and IVSC. Develop improved training for best practice methodologies, appraisal standards, and licensing. Support development of an electronic database of real estate transactions, including property descriptions.

## 7.5 Recommendations for Broadening the Reach and Benefits of Real Estate Finance

- **DCA Portfolio Guarantee for Real Estate Lending.** As discussed, the cause of the conservative profile of real estate lending does not rest primarily with inappropriate bank policy per se, but rather in the legal and registration impediments discussed above. As noted, however, mainstream banks often remain very risk averse *even after the components of the legal and administrative infrastructure start to fall into place*. Thus, banks are reluctant to lend to more moderate income households, or those without a sufficient number of guarantors, or a large compensating balance

This type of situation is precisely what USAID's DCA portfolio guarantee program is designed to help overcome. The goals of a DCA portfolio guarantee program would be to share risk with the lenders in situations where levels of risk are unknown and difficult to measure. In exchange for a partial portfolio guarantee (for example, 30 to 50 percent), banks would be required to adopt less stringent underwriting criteria as agreed upon between themselves and USAID. Thus, we recommend that a DCA program be designed and bank partners sought in order to expand real estate lending at a faster pace than is now happening, and while other fundamental reforms necessary to reduce risk in mortgage finance are being addressed.

- **Assistance with Registration under a DCA Program.** Under a DCA project, properties would still need to be registered in order to obtain a mortgage loan. Indeed, this would be a requirement under the program in order to encourage registration. As noted above, USAID could offer assistance in the

registration process, and even subsidies for would-be borrowers with limited income who need to register their properties for use as collateral.

- **DCA Program in SME Lending.** USAID already provides support for lending in specific categories (such as agriculture and wood products). Should USAID expand its DCA coverage to SME lending generally, benefits could be reaped from close coordination among the various DCA initiatives, especially with regard to registration in cases where real estate is used as collateral for the SME loan.
- **Public Awareness of Rights and Obligations of Borrowers and Lenders.** Education in basics of mortgage finance and the rights and obligations of borrowers will assist would-be borrowers in accessing mortgage finance. This should go hand-in-hand with the recommended awareness campaigns on mortgage finance for judges and the creation of multiple incentives for households to register their properties.
- **Property Insurance.** Property insurance is not now mandatory, and only some banks require property insurance for a mortgage loan. The high cost of the insurance was cited as a reason. This should be investigated, as it is highly recommended that property insurance be mandatory.
- **Support the Credit Bureau.** The privately owned credit bureau will be an important support to both SME and consumer lending. We recommend a review of the current legal regime for consumer protection as well as protection of the emerging credit reporting function. It would be advisable to develop a comprehensive law on consumer credit reporting. In addition, the credit bureau may be a topic for discussion by the Roundtable. Not all banks are members; however, its usefulness is in direct proportion to membership of all suppliers of credit (not only banks), to the type of data collected, and to the frequency of updating. A number of banks indicated that they would feel more comfortable if the Central Banks were involved, so perhaps this could be a policy debate for the Roundtable.
- **Central Registry of Guarantors.** As long as the guarantor approach to mortgage and other retail lending is widely used, it will be necessary to both check the credit worthiness of the guarantors and to assure that if a given guarantor has backed multiple loans, that his income is able to support these promises. At present, there is no way to check on this except informally. This could be done through the credit bureau or the central bank.
- **Consumer Protection and Loan Products.** Variable rate loans are the appropriate loan product for Bosnia's current environment. However, there are now no "rules" guiding the decisions of the banks to increase payment levels in a response to an increase in rates (or reduce them, for that matter). A sudden jump can lead to "payment" shock among marginal borrowers, and greatly increase default rates. It is recommended that the Roundtable group (in this case, banks and the central bank) discuss more consumer-friendly loan products, where some measure of risk is shared by banks and borrowers rather than just the borrower.
- **Household Survey.** Undertake a household survey, very limited in size but using as valid a statistical sampling technique as possible. Until better information on household income and other characteristics can be made generally available, policy makers, lenders, and the Central Bank alike will lack for information on the true income and assets of households, their attempts to desire to obtain housing loans, the proportion of registered properties among those potentially eligible for mortgage loans, and so forth.

## 7.6 Recommendations for the Secondary Market

Development of mortgage securities markets does not need to be a major focus at this time, though there are some steps that may be commenced or taken. Some important steps are already being taken, including the development of the Law on Pledge of Movable Property and the development of the government securities law and market. Additional steps that might be considered include:

- Support enactment of the proposed **Law on Government Debt Issuance**. Establishment of a government debt market and gradually lengthening its maturities is arguably the most important step that can be taken at this time.
- Consider some minor clarifying amendments to the **Law on Pledge of Movable Property** to support secured capital markets transactions such as mortgage or other collateralized bonds, including (1) clarifying that a pledgee may be an individual or any generically defined class of creditors or their legal representative; (2) providing that registration of a pledge against mortgage secured assets is sufficient to perfect a security interest in the mortgage collateral without further registration in the land register; (3) clarify the right of the secured creditor to retain pledged claims for an indeterminate period of time for collection and application of the proceeds to satisfaction of the debt.
- Develop a set of amendments to the **laws on legal entities/enterprises** which would (1) eliminate present provisions which appear to restrictively define secured corporate bonds; and (2) authorize creation of a tax neutral special purpose corporate entity which could be used for securitization of receivables and other claims.<sup>16</sup>
- Develop amendments to the **Law On Property Relations** to create a concept of a collateral trust or trustee which can be used in secured bond transactions to facilitate protection of bond holder interests in case of issuer default.
- Develop amendments to the **laws on investment funds** that permit investment in mortgage loans or other receivables, as well as investment in mortgage securities. The recent Bulgarian Law on Special Purpose Investment Companies might be a good point of departure in this regard, though it has some peculiarities that are not worth repeating. The "mortgage investment fund" should be a tax neutral, self-liquidating closed end fund authorized to issue participation certificates.
- Encourage **development of supplementary private pension funds**, which have been the impetus for development of the mortgage securities market in several transitional countries.

Ultimately, develop a simple **mortgage bond law** that would clarify the rights of investors, particularly with respect to issuer bankruptcy.

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<sup>16</sup> A structured mortgage security is usually issued through a special purpose vehicle that is not taxed at the entity level (tax neutral), rather passing its revenues through to security holders to be taxed. The current BiH Law on Mutual Funds recognizes such a concept as a tax neutral fund, but this concept would need to be extended to other entities involved in securitization transactions, which may require legislative action.



## **Annex 1: Laws Reviewed:**

FBiH Companies Law

RS Law on Enterprises

Law on Banks (FBiH and RS)

Law on Obligations and Torts

Law on Obligations and Torts Draft of July 23, 2003

FBiH Law on Bankruptcy and Liquidation

FBiH Law on Management Companies and Investment Funds

RS Law on Privatization Investment Funds

Law on Construction Land (FBiH and RS)

Law on Securities (FBiH and RS)

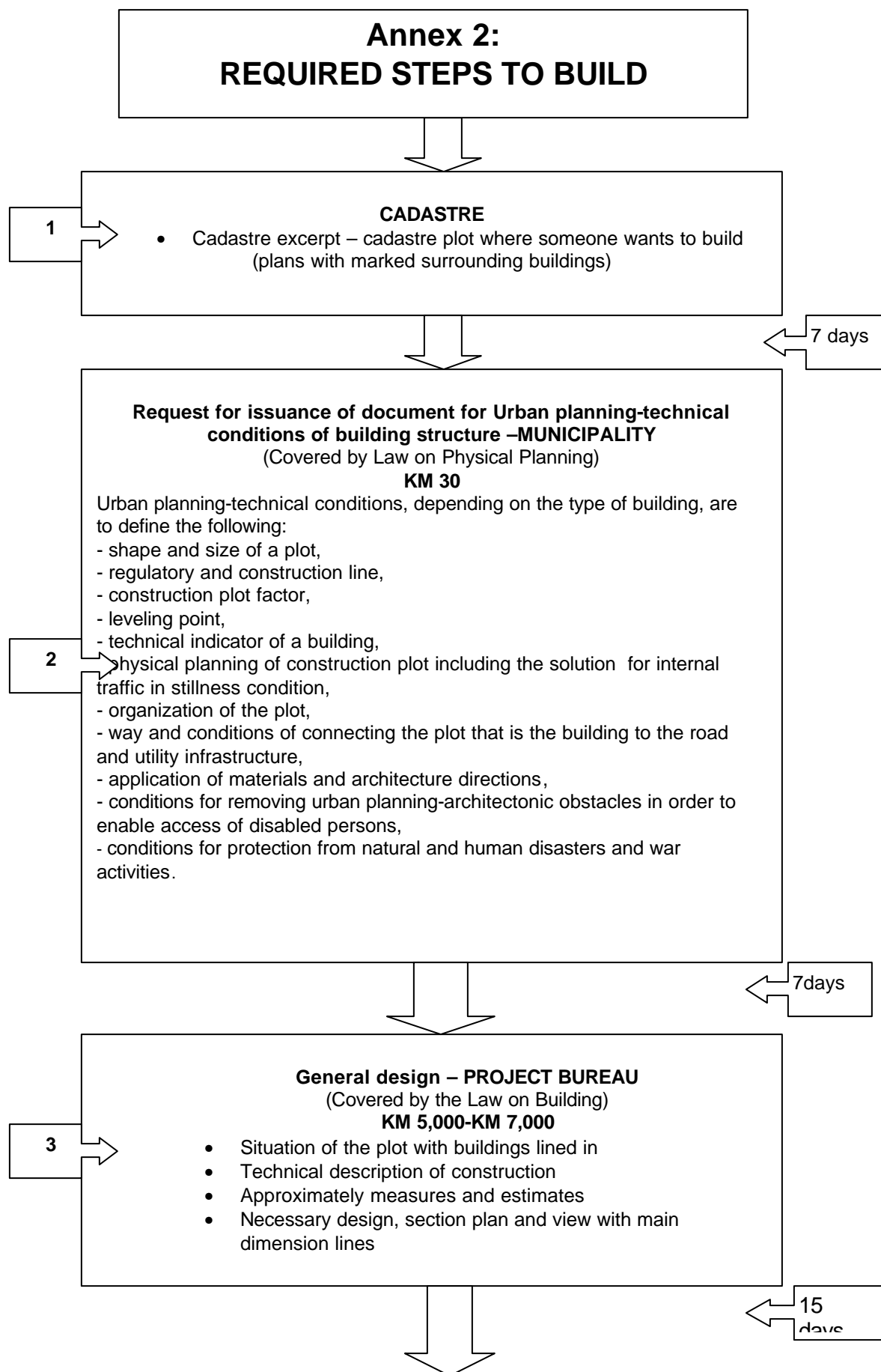
Law on Notaries

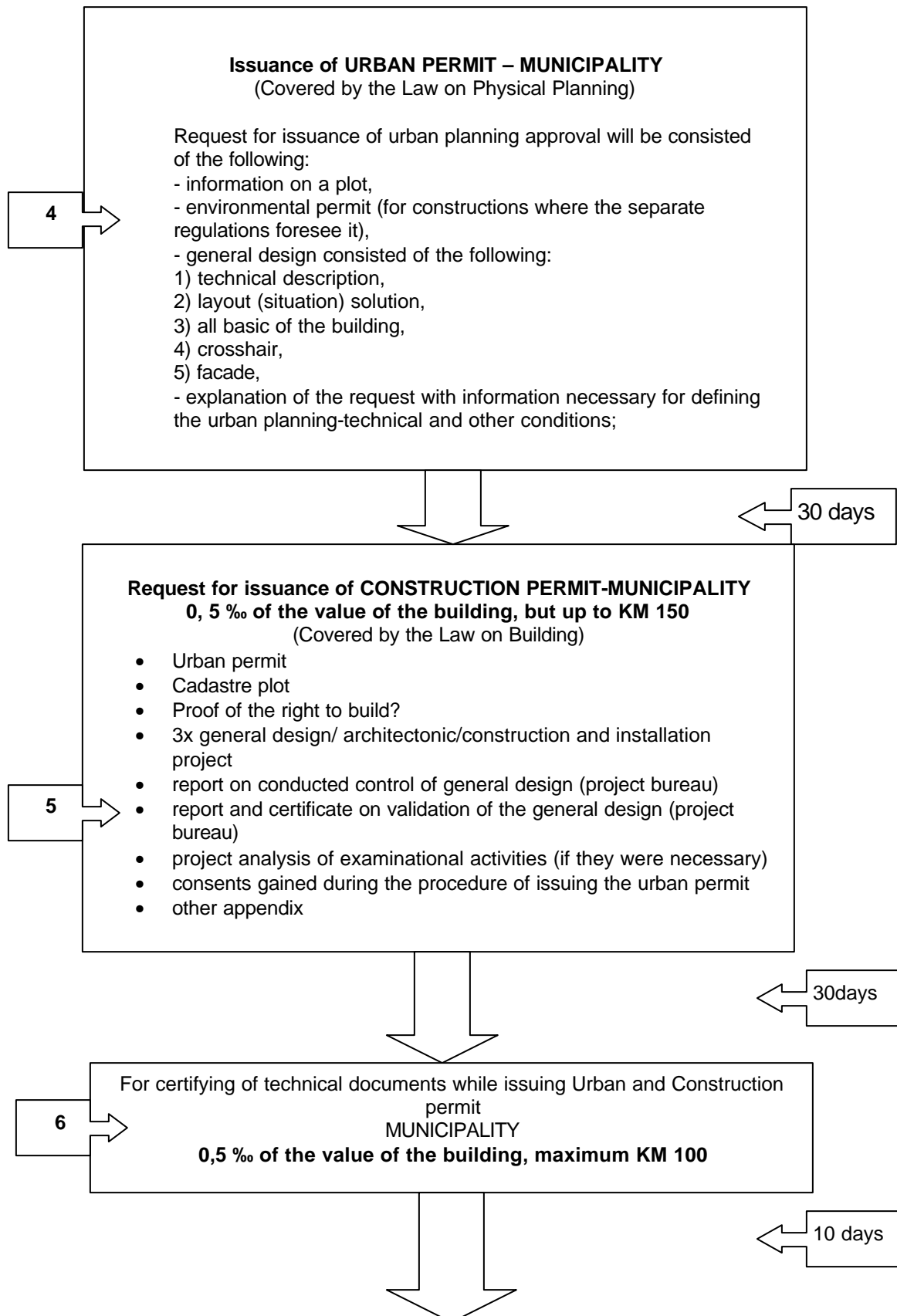
Law on Land Registries in FBiH

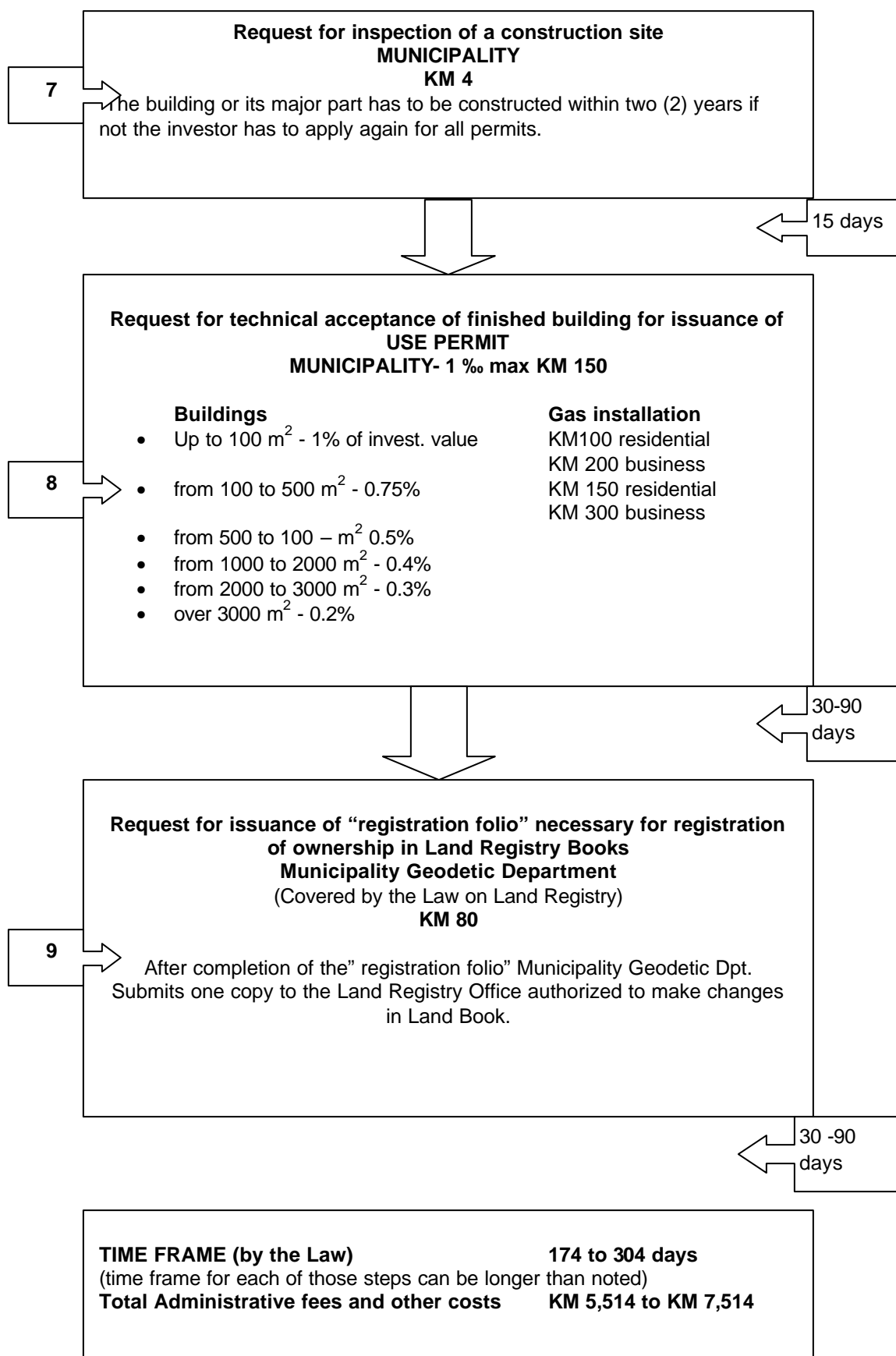
Framework Pledge Law

Law on Statistics of Bosnia and Herzegovina











### Annex 3: Interview Schedule

Institution	Real Estate Assessment attendees	FSBAT attendees	Institution attendees
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#### 2/23/04 Monday

USAID	Sally Merrill Carol Rabenhorst Norman Flynn	Kent McNeil Taisa Zecic	William Lawrence - Senior Private Sector Advisor Amy Meyer - Banking and Business Development Manager Dzenana Fazlic
Independent Lawyer from Zenica	Carol Rabenhorst	Dzenana Fazlic/USAID	Velida Imamovic Sarajlic
Banking Agency	Sally Merrill	Kent McNeil	Mustafa Brkic -Deputy Director of the Federal Banking Agency
Artis-Real Estate Agency	Norman Flynn		Sasa Pinter - Head of the Artis
Imobilia Trade	Norman Flynn		

#### 2/24/04 Tuesday

LAKE- Real Estate Developer	Norman Flynn		Nedžad Bubica- Principal President
FILE	Carol Rabenhorst Sally Merrill	Kent McNeil Taisa Zecic	Patrick Wujcik -Chief of Party Mihridzana Muratbegovic -Lawyer
Kvadrat-RE Agency	Norman Flynn		Adnan Omerovic- Owner
ZE VAL-RE Agency	Norman Flynn		Sead Tabakovic- Director
Municipality Stari Grad Sarajevo	Sally Merrill Carol Rabenhorst	Taisa Zecic	Lejla Cerić - Chief of the property legal relations section
AID Tours-RE Agency	Norman Flynn		Kasim Borovina - Principal Partner
Ans-Drive- Real Estate Developer	Norman Flynn		Alija Gadzo-General Director Sadik Dervisevic-Executive Manager of the Furniture Factory

#### 2/25/04 Wednesday

Nekretninepromet-Company Stari Grad	Norman Flynn		Edin Buljubasic- Owner
GTZ- Land Registry Project	Sally Merrill Carol Rabenhorst	Taisa Zecic	Jean-Luc Horisberger-Team Leader Larisa Tajic-Legal Advisor Jorg Weike-Expert for Land Registry Law
Institute for Geodesy	Sally Merrill Carol Rabenhorst	Taisa Zecic	Miroslav Musa-Inspector Nermina Begovic-Legal Advisor
Former BF Appraisers	Norman Flynn	Taisa Zecic	Kenan Softic



USAID Mission-Democracy office	Carol Rabenhorst		Mark Elingsteid-Democracy Advisor
IMF	Sally Merrill	Kent McNeil	Valeria Fishera- Resident representative in BiH Berina Selimovic-Mehmedbasic-Economic Advisor
BUTMIR-Real Estate Developer	Norman Flynn		Faruk Dizdarevic-Director

**2/26/04 Thursday**

Staff meeting	Norman Flynn Carol Rabenhorst Sally Merrill	Kent McNeil Taisa Zecic	
Raiffeisen Bank	Carol Rabenhorst Sally Merrill	Taisa Zecic	Emina Muharemagic-Head of Retail Meliha Jusic-Deputy Head Vojislav Puskarevic-Technical Secretary of the Bank Emina Asotic-Head of the Legal Dpt.
Voks Imobilia	Norman Flynn		Kaca Durmic-Head of the Company
Raiffeisen Insurance	Sally Merrill		Kimeta Avdagic-Non Life Insurance Dpt.Manager
Sarajevo Court	Carol Rabenhorst	Taisa Zecic	Ada Dobraca-Head of the Land Registry Office
Hewing Real Estate Agency	Norman Flynn		Edin Huseinovic-Rent Agent
Assessor	Norman Flynn		Ljiljana Borovcanin-Cirkovic-Investment Dpt. Municipality Center

**2/27/04 Friday**

Triland Development-Anatol	Norman Flynn		Mirza Muhasilovic-Director of Bosnian Operations for Triland
World Bank	Sally Merrill Carol Rabenhorst	Kent McNeil	Jean-Luc Bernasconi - Senior Country Economist Goran Tinjic - Project Officer
Municipality Assessors	Norman Flynn		Cesir Heni-Erduran- Head of the Tax Office Sarajevo
Lares-Property Managers	Norman Flynn		Zelimir Karlovic-Director of the Company
Gala- Real Estate Agency	Norman Flynn		Mevlida Koco-Musa-Director of the Company
Universal Bank	Sally Merrill	Kent McNeil	Edin Hamzagic-Head of the Commercial Lending Jasna Gvozdjar-Head of the Retail
USAID EXIT Meeting	Norman Flynn Carol Rabenhorst Sally Merrill	Kent McNeil Taisa Zecic	Howard Shumka-Mission Director William Lawrence Dzenana Fazlic



**2/29/04 Saturday**

Geos-Real Estate Agency Zenica	Norman Flynn		Nidzara Obad-Head of the Company
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**Travel to Banja Luka on Sunday, February 29**

**3/1/04 Monday**

Razvojna banka jugoistocne Evrope Development Bank of Southeast Europe	Sally Merrill Carol Rabenhorst	Taisa Zecic	Stanka Cegar-Retail Banking Director Ljubica Savic-Head of Legal Dpt. and Human Resources
Raiffeisen-Banja Luka Branch	Sally Merrill Carol Rabenhorst	Taisa Zecic	Emina Komic-Head of the Legal Dpt. Valentina Zmaric-Head of the Loan Term Loans Dpt. Ilija Bozic- Head of the Short Term Dpt.
BAR Association RS	Carol Rabenhorst Sally Merrill	Taisa Zecic	Miljkan Pucar-President of the Executive Board Vitomir Gajic-member

**3/2/04 Tuesday**

Volksbank	Sally Merrill Carol Rabenhorst Steve Butler	Kent McNeil	Aida Sebic-Head of the Legal Dpt. Zijada Kobilj-Head of Commercial and Retail Lending
OHR	Carol Rabenhorst Sally Merrill Steve Butler	Kent McNeil	Jayson Tayler-Legal Dpt. Herbert Pribitzer-Economic Dpt.
Central bank	Carol Rabenhorst Sally Merrill Steve Butler	Kent McNeil Taisa Zecic	Dragan Kovacevic-Vice Governor

**3/3/04 Wednesday**

ZABA	Sally Merrill Carol Rabenhorst	Taisa Zecic	Vladimir Cosic-Head of the Legal Dpt. Vanda Loncar-Head of Retail Banking
Hypo Alpe Adria	Sally Merrill Carol Rabenhorst	Taisa Zecic	Sena-Martina Topic-Head of Legal Affairs Sub-department and Deputy Head of Market Support Dario Saric- Retail Banking
Mostar North Municipality	Carol Rabenhorst	Taisa Zecic	Salem Bubalo-Acting Head of the Municipality and Head of Housing and cadastre section



Raiffeisen Branch Mostar	Sally Merrill		Ivanka Galic-Director of Accounting and Controlling Sector Dragica Kolak-Head of Legal affairs and Marketing Zeljko Nuic-Head of the Retail Dpt. Denis Omeragic-Head of the Client Relationship Dpt.
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GTZ Cadastre Project	Steve Butler	Kent McNeil	Ivica Micunovic-Project Assistant
Pledge Registry Project	Steve Butler	Kent McNeil	Yair Baranes-Chief of Party Boris Maslo-Legal Advisor
Bankruptcy Judge	Steve Butler	Kent McNeil	Hakija Zaimovic
FILE Project	Steve Butler	Kent McNeil	Mihridzana Muratbegovic-Lawyer

**3/3/04 Thursday**

USAID BF	Steve Butler	Kent McNeil Taisa Zecic	Steve Farkas-Chief of Party
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**3/5/04 Friday**

US Treasury	Steve Butler	Kent McNeil	Ann Schwartz - Resident Advisor for Government Debt
LRC-Credit Biro	Sally Merrill Steve Butler	Kent McNeil	Adnan Hrenovica-General Manager
USAID Exit meeting	Sally Merrill Carol Rabenhorst Steve Butler	Kent McNeil Taisa Zecic	Howard Sumka-Mission Director ERO Office Staff